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**Decision Maker:** PORTFOLIO HOLDER DECISION

**Date:** 22<sup>nd</sup> November 2022

**Decision Type:** Non-urgent                      Non-Executive                      Non-Key

**Title:** Extension of Covid-19 Surge Capacity Nursing Support Service

**Contact Officer:** Dr Jenny Selway, Consultant in Public Health Medicine  
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**Chief Officer:** Dr Nada Lemic, Director of Public Health

**Ward:** All Wards

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## 1. REASON FOR REPORT

- 1.1 Members are updated on the contract supplying Support Nurses as required until March 2023 and asked to approve an extension of the Contract until 31<sup>st</sup> March 2024, if required.
- 1.2 This contract has been put in place to provide additional capacity at short notice as required to the pandemic response in the event of a surge in infection rate e.g. due to another Variant of Concern such as the Omicron variant.
- 1.3 The Support Nurses are currently on standby but it is anticipated their service will be needed during the winter months of 22/23 and 2023/24, if required.

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## 2. RECOMMENDATION(S)

- 2.1 The Portfolio Holder following Agreement from the Assistant Director Governance & Contracts, Director of Finance and Director of Corporate Service is asked to:
  - i) Note this report and authorise the further extension beyond term of the Contract with Smart Health Solutions for the provision of Surge Nursing Support Services until 31<sup>st</sup> March 2024, should it be required.
  - ii) Grant delegated authority to the Chief Officer to apply the extension based on an assessment of need and risk, in consultation with the Portfolio Holder.

## Impact on Vulnerable Adults and Children

1. Summary of Impact: Supports the Public Health response to the pandemic which disproportionately affects vulnerable adults and children.
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## Corporate Policy

1. Policy Status: Not Applicable:
  2. BBB Priority: Safe Bromley,
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## Financial

1. Cost of proposal: Estimated Cost: £20k
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Public Health
  4. Total current budget for this head: £259k
  5. Source of funding: Local Authority COVID-19 Test and Trace Service Support Grant
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## Personnel

1. Number of staff (current and additional): Not Applicable
  2. If from existing staff resources, number of staff hours: Not Applicable
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## Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: Applicable:
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## Procurement

1. Summary of Procurement Implications:
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

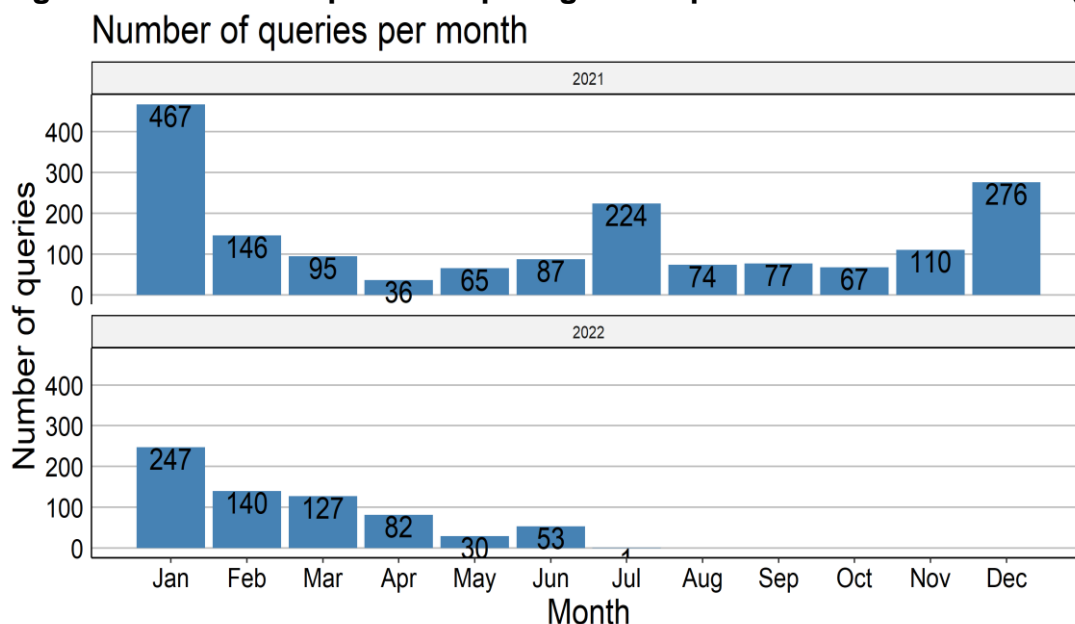
### **3. COMMENTARY**

- 3.1 In 20/21 Bromley Public Health worked with Smart Health Solutions to develop a “bank” of registered nurses to support the Public Health team in responding to queries from professionals. These nurses were given appropriate training and detailed resources and systems were put in place. These ‘Support Nurses’ are only needed when there is a surge in infections.
- 3.2 In 21/22 the service was not used until December 2021 when the Omicron variant caused very high levels of infection in the borough. The ‘Support nurses’ are currently on standby. It is anticipated these nurses will be needed for surges of Covid infection in the winter months of 22/23 and also 2023/24, if required.
- 3.3 In September 2020, under the delegated authority granted by the Leader, on behalf of Executive (Report CSD20062 – Covid 19: Procurement Implications) to Chief Officers in consultation with the Portfolio Holder where required, to take suitable procurement action in response to Covid 19 disruption, approval was granted to enter into a contract with Smart Health Solutions (SHS) to provide nurses to support the response to the pandemic. The Contract was awarded for 6 months until 31<sup>st</sup> March 2021.
- 3.4 Under the extended delegated authority approved by the Leader in November 2020, the contract with SHS was extended until March 2022 to ensure capacity for nursing support to respond to the pandemic continued to be available. The extension of the contract covered the retention of the nurses, providing up to date training and any potential salary costs during the extension period. This contract was then extended for a further year to March 2023 by way of a Gateway Report approved by the Portfolio Holder for Adult Care & Health, in agreement with the Director of Public Health, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance.
- 3.5 The contract for the Support Nurses is with Smart Health Solutions (SHS). SHS identified nurses willing to be trained and support the response to the pandemic. Resources were developed jointly and processes put in place. Since that time the Support Nurses have added additional capacity when needed during waves of infection and been on standby when infection rates are low.
- 3.6 The value of the contract in 2020/21 was £132k. The estimate of the value of the contract for 2021/22 by the end of March 2022 was £32k, but in fact the value was £20k. The value of the extension was estimated in January 2022 based on the 2021/2022 figures. The estimate of the value of the contract for 2023/24 is £20k based on the 2021/22 figures. The cumulative value until March 2024 is estimated to be £204k.

#### **3.7 Service Profile / Data Analysis**

This additional capacity will only be required when case numbers are high as this coincides with increased queries and requests for support. As seen in Figure 1 this tends to be the winter months, however a significant new variant could cause a surge in cases of Covid at any time of year.

**Figure 1: Number of queries requiring action per month for 2021-2022 (YTD).**



The data shown in Figure 1 demonstrates each wave of Covid results an increased number of queries received by the Covid response team.

The Support Nurses are a valuable additional resource performing the initial triage of queries so they are managed by the most appropriate person in Public Health. The Support Nurses have also been trained to respond to more straightforward email queries which leaves the Public Health Nurses and the Infection Prevention Specialists free to respond to the more complex queries. A standby function at minimal cost will ensure the nurses' training is up to date and they are able to support the team at short notice. If deployed, the Support Nurses will be paid a standard hourly rate.

#### **4. SOCIAL VALUE AND LOCAL / NATIONAL PRIORITIES**

- 4.1 Supporting local schools and care settings with Public Health advice during the pandemic has enabled our schools and care settings to stay open and provide much needed services for the majority of the time since the start of the Covid 19 pandemic in the UK in March 2020.

#### **5. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS**

##### **5.1 Estimated Value of Proposed Action:**

The financial picture is as follows:

20/21 £132,481 This cost included the cost of training the nurses and developing resources and systems together with Smart Health Solutions.

21/22 Estimated as £32k in the Gateway paper of January 2022, but in fact £20k

22/23 £32k Standby figures (estimated based on 2021/22 figures)

23/24 £20k Standby figures (estimated based on 2021/22 actual figures)

The whole life value of this contract is as a minimum £204k.

As the Contract with SHS is a Light Touch Service, the proposed actions are below the Thresholds set out in the Public Contract Regulations 2015.

## 6. POLICY CONSIDERATIONS

### 6.1 Local government possessed responsibilities and powers for health protection prior to the pandemic

The legal basis for managing outbreaks of communicable disease (pre-pandemic) is spread across several different pieces of primary and secondary legislation, with the associated responsibilities split across a number of organisations and professional groups.

Legislation	Responsibilities	Organisations and professions
The Public Health (Control of Disease) Act 1984	Provides for powers to intervene in cases of public health risk, however these powers are seldom used.	Environmental Health in local government
Civil Contingencies Act, 2004	Sets out the responsibilities of different agencies in responding to major incidents	NHS organisations, local government and Public Health England
Health Protection Regulation, 2010	Enable local authority environmental health teams to intervene in cases of public health risk; potentially can be used for magistrate's order to undertake specified health measures for an individual	Environmental Health in local government
Health and Social Care Act, 2012	Specifies that local authority Directors of Public Health retain a responsibility for protecting the health of a local population and emergency preparedness	Creation of Public Health England and NHS Clinical Commissioning Groups; move of local Directors of Public Health to local government
Health and Safety at Work etc. Act 1974	Impose duties on employers to protect employees and members of the public and a power to require employees to cooperate	Environmental Health in local government and HSE

### 6.2 New legislation confers additional powers and prepares the way for a new legal basis for Local control measures

Since April 2013, the responsibility for providing day-to-day health protection advice and response has rested with Public Health England's Health Protection Teams (HPTs) having taken over from the Health Protection Agency (following the Health and Social Care Act 2012).

### 6.3 The Coronavirus Act 2020

The Coronavirus Act was brought forward as emergency legislation designed to facilitate a range of cross-government activity in a time of emergency. The temporary provisions of this act expired on 25<sup>th</sup> March 2022.

6.4 **Health Protection (Coronavirus, Restriction) (England) Regulations 2020, statutory instrument exercised on the basis of the Public Health (Control of Disease) Act 1984(1).**

Local authorities had the power to close individual premises, close public outdoor places and restrict events with immediate effect if they conclude it is necessary and proportionate to do so, in order to respond to a serious and imminent threat to public health and control the transmission of COVID-19 in its area. The [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No.3\) Regulations 2020 \('No.3 Regulations'\)](#) have now expired.

## 7. IT AND GDPR CONSIDERATIONS

7.1 The Council has utilised the [Coronavirus \(COVID-19\): notice under regulation 3\(4\) of the Health Service \(Control of Patient Information\) Regulations 2002 – general](#) as a legal and governance framework for processing and sharing of confidential information to aid response to the COVID 19 pandemic. This notice was withdrawn in July 2022 although continues to be active until the end of October 2022.

7.2 It is accepted that we have moved beyond the initial response to the pandemic and it is important to ensure that there is a sustainable legal basis for the ongoing processing of confidential patient information that is necessary for ongoing COVID-19 purposes and that processing justified and proportional.

7.3 NHS England has published [guidance](#) on processing following the withdrawal of the notice, and it is identified that the Council may still be able to process data under regulation 3 of the Control of Patient Information Regulations ensuring that:

- The processing falls within a purpose set out in regulation 3(1) of the COPI regulations.
- The use of confidential patient information is necessary for processing under 3(1)8
- The Caldicott guardian is informed of, and consulted on, the proposed use.
- All processing is in line with regulation 7 of the COPI Regulations.
- All processing is in line with UK GDPR, the DPA and the eight Caldicott Principles.
- All reasonable steps are taken to ensure that patients are aware of the use of their data and their rights under data protection law.
- Records of all processing under regulation 3 are kept to ensure that Council are able to provide information that may be required by the Secretary of State under regulation 3(5) or any other person under regulation 7(1)(e).

7.4 Any processing that is undertaken outside of these conditions will be covered under the London Resilience Forum Data/Information Sharing Agreement: People affected by an emergency, Section 2 – Purpose and Benefits.

## 8. PROCUREMENT COSIDERATIONS

8.1 This report seeks a variation to the contract with Smart Health Solutions to extend the contract for a further period of one year beyond the current contract period from 1<sup>st</sup> April 2023 and expiring on 31<sup>st</sup> March 2024. The value of the proposed extension is up to £20k. The whole life value of the Contract will be £204k.

8.2 This was originally awarded via an exemption from tendering in accordance with report CSD20062 (Covid-19 Procurement Implications) agreed by the Leader on behalf of Executive. An extension of one year beyond the term of the contract expiring in March 2023 was agreed by the Chief Officer under the extended delegated authority approved by the Leader in November 2020.

- 8.3 This is a below threshold service contract and is covered by the Light Touch Regime. However, the principles of Regulations 32 and 72 of the Public Contract Regulations 2015 will be applicable for a contract of this nature and the requirement to extend the existing contract.
- 8.4 The Council's requirements for authorising an extension of this contract is covered in CPRs 3.3, 23.7 and 13.4. For a contract of this value, the Approval of the Portfolio Holder, the Chief Officer, following Agreement from the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance.
- 8.5 In accordance with CPR 2.1.1, Officers must take all necessary professional advice.
- 8.6 Following Approval, the variation must be applied via a suitable Change Control Notice, or similar, agreed with the Provider.
- 8.7 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

## FINANCIAL CONSIDERATIONS

- 9.1 The cost of the service in 22/23 and 23/24 is estimated at £52k which will make the whole life value of the contract £204k as set out in the table below:

	<b>£'000</b>
<u>Existing contract</u>	
2020/21	132
2021/22	20
	152
<u>Proposed extensions</u>	
2022/23 (est)	32
2023/24 (est)	20
	52
<b>Total</b>	<b>204</b>

- 9.2 The cost of the current contract and proposed extension will be fully funded through the Local Authority COVID-19 Test and Trace Service Support Grant allocation of £1,370k, of which £259k is currently unallocated.

## 10. PERSONNEL CONSIDERATIONS

None

## 11. LEGAL CONSIDERATIONS

- 11.1 This Report requests the Portfolio Holder to note this report and authorise a further extension beyond the expiry of the Contract with Smart Health Solutions (which has previously been extended twice), from 1 April 2023 until 31<sup>st</sup> March 2024. It further requests the PH to delegate the actual extension to the Chief Officer if this will be required.
- 11.2 The Council has the power to receive and spend any Government Grant as outlined in this report. The Council also has various statutory duties and powers for the maintenance of public health protection as detailed in part 6 of this report.

- 11.3 As this contract is for the provision of health services it would be regulated by the Light Touch Regime (LTR) under the Public Procurement Regulations 2015. The cumulative value of this contract is, however, below the threshold of £663,540 so its procurement is not fully regulated by the LTR. However, the procurement must have still complied with the public procurement principles of equality, transparency and non-discrimination which must be applied in a manner proportionate to the subject matter and context of the purchase.
- 11.4 Under the Council's Contract Procedure Rules (CPR), the Council's requirement for authorisation of an extension/variation to a Contract, is in accordance to CPR 23.7 and 13.1. Under 13.1 of the CPR's and guidance, the decision to approve the extension, must be made with the approval of the Portfolio Holder, in agreement of the Budget Holder, Chief Officer, the Assistant Director for Governance and Contracts, the Director of Corporate Services and the Director of Finance.
- 11.5 Following Approval, the extension/variation of the Contract must be applied via the appropriate contract extension procedure, signed by both parties, as specified in the contracts.
- 11.6 The Contracts can be awarded in accordance with the Council's Contract Procedure Rules and the Public Procurement Regulations 2015. Officers should ensure they comply with all Grant conditions.

<b>Non-Applicable Sections:</b>	<b>STRATEGIC PROPERTY, STAKEHOLDER ENGAGEMENT, IMPACT ASSESSMENTS, IT AND GDPR CONSIDERATIONS,</b>
Background Documents: (Access via Contact Officer)	PORTFOLIO HOLDER REPORT - Covid-19 Surge Capacity Nursing Support Service – Contract Extension 27th January 2022