

Decision Note – Forensic Drugs Analysis



STAFFORDSHIRE COMMISSIONER
Police | Fire and Rescue | Crime



REQUEST FOR DECISION BY THE STAFFORDSHIRE COMMISSIONER

	Policing:	Crime:	Fire & Rescue:
This decision relates to:	✓	✓	

APPROVAL (for completion by Staffordshire Commissioner only)

Rationale for approval

NATIONAL MARKET CONDITIONS IN RELATION TO THIS ISSUE LEAVES NO CHOICE BUT TO AGREE THIS ON A TEMPORARY BASIS.
AEL

STAFFORDSHIRE COMMISSIONER

Signature

Date

25/7/19

Date decision required by: As soon as possible

If an urgent approval is required, please state reasons:

Urgent – Due to previous interim 3 month extension having expired and due to major issues within the market place, an immediate replacement contract is required.

For completion by Staffordshire Commissioner's Office only:-

Decision Number: SCP/D/2019/002

Date Received: 5 August 2019

	Yes	No
Has the required decision been considered under the guidance of the Staffordshire Commissioner's Decision Making Policy?	X	
Has the required decision been deemed to be a Key Decision as defined within the Staffordshire Commissioner's Decision Making Policy?	X	
Who is empowered to make the required decision?		

Title Contract for the Provision of a Forensic "Drugs Analysis Service"

Summary:

In recent years, the supply market for the provision of "traditional forensics analysis" has been increasingly unstable due to a reduced market value, as a result of a number of rigorous tender exercises. These issues were highlighted to the Executive Team in late 2018, as representatives of Staffordshire Police participated in national stabilisation negotiations; the ultimate objective being to protect the criminal justice system from extreme disruption.

Up until 28th February 2019, Staffordshire Police procured the "**Drugs** Analysis Service" via the West Midlands Regional Agreement, let by the Police and Crime Commissioner for West Midlands. This contract had no further extension options available, however due to the ongoing national marketplace stabilisation activities, a replacement tender/contract was unable to be progressed. Therefore, an interim three month contract extension was agreed (28/02/19 to 31.05.19), which resulted in a price uplift of 45% on affected contracts), this allowed for the Forensic Capability Network (FCN) Commercial Team to work with the three (3) Providers within the market, creating a 'rate card' of sustainable pricing and volume split by Force (Staffordshire, West Midlands, West Mercia and Warwickshire), to ensure continuity of service to the region until March 2021.

The FCN Commercial Team have continued to work with the Regional Lead and all providers within the market during the 3 month extension period, in order to agree a volume split structure for all Forces participating and a rate card of payments. This has now been negotiated, agreed and circulated to all Forces; the proposal is to again extend the current arrangements from 10th June 2019 to March 2021 and the expectation is that all Forces will sign contracts directly with all 3 providers. The extension contracts will utilise the original framework Terms and Conditions (Staffordshire will be including an appendix specifically to deal with GDPR, as the original terms did not), the newly negotiated volume split and rate card of prices. This further extension will allow a) synergy of expiry dates of the other traditional forensics contracts, b) further market stabilisation activity and c) ensure the Force has contingency in regard to current issues with our main

supplier for Drugs Analysis (Eurofins), as highlighted within a Force bulletin, distributed by Assistant Chief Constable, Emma Barnett on Friday 14th June 2019.

Recommendation:

It is recommended to award direct contracts to the three (3) Drugs Analysis Providers in the market utilising the rate card of prices negotiated and approved by the Forensic Capability Network (FCN) Commercial Team. This will be an interim arrangement that allows for a) synergy of expiry dates of the other traditional forensics contracts, which are due to expire in March 2021 b) further market stabilisation and c) ensure the Force has contingency in regard to current issues with our main supplier for Drugs Analysis (Eurofins), as highlighted within the bulletin, distributed by Assistant Chief Constable, Emma Barnett on Friday 14th June 2019.

Providers: Eurofins, Socotec, Key Forensics

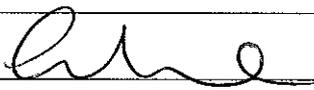
Duration: 10.06.2019 – 31.03.2021 (inclusion of clause to terminate "at convenience" giving 6 months' notice)

Anticipated Annual Value: [REDACTED]

Chief Executive

I hereby approve the recommendation for consideration.

Signature



Date

23/7/2019

REPORT AND ADVICE TO THE STAFFORDSHIRE COMMISSIONER

1. Introduction and background

In recent years, the supply market for the provision of "traditional forensics analysis" has been increasingly unstable due to a reduced market value, as a result of a number of rigorous tender exercises. These issues were highlighted to the Executive Team in late 2018, as representatives of Staffordshire Police participated in national stabilisation negotiations; the ultimate objective being to protect the criminal justice system from extreme disruption.

Up until 28th February 2019, Staffordshire Police procured the "**Drugs** Analysis Service" via the West Midlands Regional Agreement, let by the Police and Crime Commissioner for West Midlands. This contract had no further extension options available, however due to the ongoing national marketplace stabilisation activities, a replacement tender/contract was unable to be progressed. Therefore, an interim three month contract extension was agreed (28/02/19 to 31.05.19), which resulted in a price uplift of 45% on affected contracts), this allowed for the Forensic Capability Network (FCN) Commercial Team to work with the three (3) Providers within the market, creating a 'rate card' of sustainable pricing and volume split by Force (Staffordshire, West Midlands, West Mercia and Warwickshire), to ensure continuity of service to the region until March 2021.

2. Issues for consideration

Operational Consideration:

This service is operationally critical and the impact of an exit of just one of the major Providers from this market would present a major disruption in service delivery, as the remaining competitors would be unable to absorb the additional demand immediately. A volume split for Staffordshire has been agreed, [REDACTED]

[REDACTED]

[REDACTED]

Financial Consideration:

Due to the nature of the business, volumes cannot be guaranteed and therefore have been based on previous years actual's, in order to provide anticipated costs.

3 Month Extension		
01.02.18 - 31.01.19	01.03.19 - 31.05.19	10.06.19 - 09.06.20
£	[REDACTED]	[REDACTED]
£	[REDACTED]	[REDACTED]

*Please note this is full year effect; however, for FY 19/20 this will only have part year effect.

1. Original annual contract cost was [REDACTED] for the period 01.02.18 to 31.01.19
2. Due to the aforementioned issues within the market, for the period 1st March 19 to 31st May 2019, a 45% uplift with all providers, by the regional lead in order to aid stabilisation – although there was an uplift in unit price during this period, the pro-rata monthly value is less than that during the period 01.02.18 – 31.01.19, due to a potential decrease in volume (this may have been further impacted by the issues currently being experienced with “Eurofins”, outlined within “other market considerations” below).

3. The new contract extension has given rise to a further uplift, utilising a rate card approach with all providers for the term of the agreement; the annual contract value is now anticipated to be [REDACTED] based on previous volume.

In addition to the above uplift, additional charges have been introduced as the current 'free of charge' arrangements for the below has been deemed unsustainable. There the following will now bear a cost;

- Costs for full statements
- Test Purchase Product Codes (TPO)
- Preservation of Fingerprint and DNA on Drugs Exhibits

Considerable data analysis has been conducted by the forensics submissions team in regard to previous volumes of the above listed items. It has been estimated that, without considering the increase, should a TPO be arranged and implemented, we are likely to see a further additional spend of approximately [REDACTED] within this financial year.

The Forensic Submissions Team have been advised of the price increases and additional measures have been put in place by management to ensure additional scrutiny is carried out by the staff. Furthermore, Forensics management with support from Financial & Commercial Services colleagues, will continue to work together to explore any further efficiency improvements, that can be made in order to minimise the impact of this additional expenditure.

Procurement Risk:

A typical OJEU compliant procurement has not been conducted, however the process carried out by West Midlands Police in conjunction with the NPCC's FCN Commercial Team is considered to have been fair and transparent with consideration to the current situation in the market place, which satisfies the EU Treaty principles. All capable Providers have been included in the process and volumes sent for analysis have been split between the providers fairly across the region. The risk of challenge is therefore low.

Consideration has been given as to whether a VEAT notice would applicable; however though discussions with the Working Group, as all market players have been involved in the process and are guaranteed a fair split of volume, it was deemed this would not applicable in these circumstances.

Other Market Considerations:

On 3rd June 2019, "Eurofins" issued a press release stating they had been affected by a ransomware attack causing disruption to many of its IT systems in several countries. Following this, Police Forces were advised to suspend all services with Eurofins whilst the issue was investigated.

The FCN Commercial Team are currently running Gold/Silver Groups to inform the current situation and ensure that forensic services are spread amongst the remaining suppliers. It has been advised that in the interim, all new forensic work must now be submitted to other contracted providers and a suggested split of allocation of work across the region has been provided by the FCN Commercial Team along with revised turnaround times and suggestions to reduce demand.

The FCN Commercial Team have also confirmed that we are to continue with the Contract Award to Eurofins for the provision of forensic services – Drugs; however, we cannot use them for service provision until we are provided with further instruction.

3. What other options have been considered?

Under the guidance of the FCN Commercial Team, whom are overseeing these issues nationally, we have been encouraged to work with the region to determine the best solution. Staffordshire acting independently from this arrangement would have undoubtedly increased risk to the Force and the market.

Staffordshire Police representation has been involved within the regional discussions and options analysed and challenged where appropriate.

4. Consultation and Engagement undertaken

Stakeholders engaged;

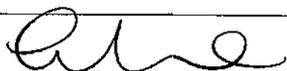
- Forensic Capability Network Commercial Team
- West Midlands Police Procurement
- Staffordshire Head of Forensics
- Staffordshire Forensic Submissions Team
- Staffordshire Finance Business Partner (Investigations Directorate)
- Staffordshire Commercial Business Partner (Investigations Directorate)
- Joint Legal Services
- Staffordshire Information Security

Report Implications

Monitoring Officer comments:

See legal comments

Signature



Date

31/7/2019

Section 151 Officer comments:

The Force Commercial team has acted to minimise the relative risk to the Force. However, the Police and Crime Commissioner will note the significant increases in price, significantly above the rate of inflation. This increase was allowed for as part of the MTFS

At this stage, following the Home Office decision in 2012 to close the national Forensics Science Service (FSS), all Forces nationally have no other choice but to use the private sector market. This decision to close the FSS has left Forces and PCC's more exposed to price increases without the ability to recover these increases from the Home Office.

Over the medium term Forces and Commissioners will have to balance these increased costs and recent concerns around quality with developing a more sustainable market engagement strategy. This will need to include further thought as to the balance between what elements of Forensics work is delivered 'in house' (either by individual Forces or via regional or national collaboration) and what work is outsourced.

Signature

John Bloomer – Chief Finance Officer (S151)

Date 12/07/2019

	Yes	No
Has legal advice (outside of that provided by the Monitoring Officer) been sought on the content of this report?		

Legal Comments:

Joint Legal Services have been consulted with and have highlighted no concerns.

5. Equality Comments

Due diligence regarding Equality has been paid during the procurement process and in addition site visits have been carried out where deemed appropriate.

Please see equality impact assessment embedded below;



3208_EIA SC_Forensic
Drug Analysis.doc

6. Background/supporting paper



7. Public access to information

Yes, though please consider redacting information where necessary.

8. Is the publication of this form to be deferred?

Yes – regarding specific monetary values and removal of appendices.		
	Yes	No
Of the Decision Note?	✓	
Of the Appendix?	✓	

ORIGINATING OFFICER DECLARATION:

Author	Amy Vukovic
Signed	<i>A Vukovic</i>
Date	12 th June 2019



The purpose of this EIA is to ensure you consider any equality issues as part of your decision making when developing / reviewing your policy / procedure.

Please complete the sections below and send to the Staffordshire Commissioner's Office to be quality assured. New / revised policies cannot be published on the policy database until the EIA has passed the quality assurance process.

Title of policy/procedure:	Contract for the Provision of a Forensic Drugs Analysis Service
Department:	Forensics
Date:	10 th June 2019

1. Identify the aims and purpose of the policy

There is no anticipated change to Force Policy at this time, this paper has been completed to support the signature of a replacement contract to provide continuity of service of our outsourced forensic drugs analysis service.

2. Identify the individuals and organisations who are likely to have an interest in, or be affected by the policy.

- Suspects / Defence Lawyers
- Forensic Submissions Team
- Investigating Officers
- CPS

3. Data

Summarise the findings of any monitoring data / information which you have considered regarding the impact of this policy on people from all or any of the protected groups. This could include national or local data.

The contract will not discriminate against any of the protected groups.

3.1 Age

n/a

3.2 Disability

n/a

3.3 Race

n/a

3.4 Religion or Belief

n/a

3.5 Sex

n/a

3.6 Sexual Orientation

n/a

3.7 Transgender

n/a

4. Research

Summarise the findings of any research you have considered regarding this policy for all or any of the protected groups. This could include information you have obtained

from other sources e.g. Home Office.

The contract will not discriminate against any of the protected groups.

4.1 Age

n/a

4.2 Disability

n/a

4.3 Race

n/a

4.4 Religion or Belief

n/a

4.5 Sex

n/a

4.6 Sexual Orientation

n/a

4.7 Transgender

n/a

5. Consultation

Summarise the opinions of any consultation for all or any of the protected groups.
Who was consulted and how e.g. survey, discussion, forum.
If there was no consultation please justify why.

Consultation is not deemed appropriate in this area, however the contract will not discriminate against any of the protected groups.

5.1 Age

n/a

5.2 Disability

n/a

5.3 Race

n/a

5.4 Religion or Belief

n/a

5.5 Sex

n/a

5.6 Sexual Orientation

n/a

5.7 Transgender

n/a

6. Conclusions

Taking into account the results of the monitoring, research and consultation, set out

Not Protectively Marked

how the policy impacts or could impact on people from the following protected groups? (Include positive and/or negative impacts)

The replacement contract will not have an adverse impact on the protected groups.

6.1 Age

n/a

6.2 Disability

n/a

6.3 Race

n/a

6.4 Religion or Belief

n/a

6.5 Sex

n/a

6.6 Sexual Orientation

n/a

6.7 Transgender

n/a

7. Decisions

If the policy will have a negative impact on members of one or more of the protected groups, explain how the policy will change or why it is to continue in the same way. If no changes are proposed, the policy needs to be objectively justified.

The replacement contract will not have an adverse impact on the protected groups. Minimal information is shared regarding the suspect when exhibits are sent to the Provider. There is no change at this time regarding the process in which Forensic Submissions staff determine which exhibits are to be outsourced for analysis.

8. Monitoring arrangements

If the policy is new what consideration has been given to piloting the policy?

If monitoring is not already in place what arrangements have been made to monitor the effects of the policy on equality and diversity?

This is an ongoing service which is already closely managed by the Forensics Dept. It is anticipated that a contract and performance monitoring regime will continue which will include quarterly meetings and performance reports.

This equality impact assessment will be published on the SC website.