

From: Richard Smith, Corporate Director of Adult Social Care and Health

To: Clair Bell, Cabinet Member for Adult Social Care and Public Health

Decision No: 20/00108

Subject: **RESIDENTIAL CARE HOME SERVICES CONTRACT FOR PEOPLE WITH LEARNING DISABILITY, PHYSICAL DISABILITY AND MENTAL HEALTH NEEDS - OPENING OF THE DYNAMIC PURCHASING SYSTEM**

Classification: Unrestricted

Past Pathway of Paper: Adult Social care Cabinet Committee 4 July 2018, 27 September 2019 and 22 May 2020
Adult Social Care Cabinet Committee – 25 November 2020

Future Pathway of Paper: Cabinet Member decision

Electoral Division: All

Summary: To inform Cabinet Committee of the intention to request approval from the Cabinet Member for Adult Social Care and Public Health on the regular opening of the Dynamic Purchasing System for Residential Care Home Contracts for People with a Learning Disability, People with a Physical Disability and People with Mental Health Needs

Recommendation(s): The Cabinet Member for Adult Social Care and Public Health is asked to:

- a) **APPROVE** the use of the Dynamic Purchasing System to enable new services to join the Residential Care Home Contract for people with a learning disability, people with a physical disability and people with mental health needs, and:
- b) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to take other relevant actions, included but not limited to entering into and finalising the terms of the contracts or other legal agreement, as necessary to implement the decision.

1. Introduction

- 1.1 The Dynamic Purchasing System is a procurement method designed to be opened periodically to enable new entrants to join, to meet our needs and demand and forms part of the process for the commissioning of Residential Care Home Services for People with a Learning Disability, People with a Physical Disability and People with Mental Health Needs.
- 1.2 Contracts for these services were awarded under decision number 18/00030, however provision was not made in that decision to allow new services to join the contract. This further decision seeks authority to open the Dynamic Purchasing System on a regular basis to ensure the appropriate mechanism is in place to award contracts to new services joining the Residential Care Home Services Contract.
- 1.3 These contracts were last competitively tendered 16-18 years ago, most placements were linked to historic Terms and Conditions, which do not reflect the Council's current practise. The need to regularise this was high and the pricing of placements required stabilising.
- 1.4 The council has statutory duties to ensure that there is sufficient and fit for purpose provision of care services to Kent residents who are eligible under the Care Act 2014 and that a sustainable market is maintained. Residential Care Home Services contribute to the offer of services to meet assessed need.
- 1.5 These contracts represent approximately £103m of spend on care home provision, but no guarantee is given as to the actual value of the Contract for each provider due to fluctuations in demand for the Service and any National Living Wage and inflationary increases that may be applied during the lifetime of the contract.
- 1.6 In line with national strategy the aim of adult social care is to reduce the number of placements to care homes and to work with the market to develop and make available a range of other alternative options, including an increase in supported living options.
- 1.7 It was therefore decided that this will require two contracts.
 - A Framework Contract with Cost Model for providers of lower level services that are in ample supply, to reduce and control supply and
 - A Dynamic Purchasing System (DPS) Contract with Cost Model for specialist homes to address gaps in the market. Should a lower level home wish to re-model, they will be able to access a specialist contract through the DPS.
- 1.8 This report is to inform Cabinet Committee of the intention to request approval from the Cabinet Member for Adult Social Care and Public Health on the regular opening of the DPS together with recommendations for the awarding of contracts in this way.

2. Strategic Statement and Policy Framework

- 2.1 Kent County Council's Strategic Commissioning unit managed the original procurement exercise for these contracts and will manage a further procurement under the rule of DPS. The new contracts will replace existing services and bring the delivery of multiple services together under one contract to form an 'umbrella' of interventions. These interventions aim, wherever possible to support a person to achieve the outcomes that are important to them, in line with the Care Act 2014, and the vision for adult social care as set out in the 'Your Life, Your Wellbeing' strategy.
- 2.2 Staff from the council's Strategic Policy and Corporate Assurance Division were part of the working group to make sure that the new contract is consistent with policy and practice.

3. The Report

- 3.1 The strategy for choosing a DPS is to address gaps in the market for specialist care home services and facilitate more choice for people with a disability and mental health needs who require a specialist service in a care home.
- 3.2 Providers applying to join the DPS will be assessed through a robust qualifying process in line with the Public Contract Regulations 2015 (PCR15). Successful entrants will join a well-managed contract for adult social care and have systems and measures in place to manage its day-to-day operational requirements. Future placements will primarily be purchased from services on the new contract. The DPS therefore encourages potential suppliers to apply to join the contract
- 3.3 Inviting new entrants to join the DPS on a regular basis will enable the Council to balance development in this area of the market at a controlled pace and to align with the work to reduce the number of care homes providing a service for lower needs, where there is an oversupply.
- 3.4 There is currently 16 specialist care home services in Kent not on the DPS through the original tender and KCC commission placements in these homes on old out of date terms and conditions.

4. Financial Implications

- 4.1 In-depth detailed work carried out by the council's Strategic Commissioning and Analytics and Finance Teams at the original pre-procurement stage for the new contracts identified a potential increase cost of £4.4m, assuming all existing services transferred onto the new contracts.
- 4.2 It was expected that some fees would adjust to enable the stabilising of placement costs. The original procurement exercise resulted in 40% of placement costs going down and 60% going up.

- 4.3 Based on this calculation the estimated combined whole year cost for the 16 existing specialist care home services to join the new contract through the DPS is £7,198,785. This includes £123,912 expected increase to stabilise costs on the new contract, which is included in the overall potential cost of £4.4m
- 4.4 Specialist care homes generally cater for a smaller number of people, having between 3-6 beds. Where homes offering services for lower care needs average around 6-10 beds. Going forward it is expected that the cost for new specialist homes joining the DPS, to meet future requirements, will be off set against a larger number of lower needs services exiting the market. Resulting in a cost neutral or a reduction in overall costs.

5. Legal Implications

- 5.1 The Strategic Commissioning Division enlisted the support of Legal Services through the development of the contract specification and Terms and Conditions, although the standard Care Services Terms and Conditions have been used. There will need to be resource allocated at the end point contract award for contracts to be signed and sealed. New contracts will be taken forward in a way which ensures the Council's statutory responsibilities are discharged accordingly.

6. Equality Implications

- 6.1 The Equality Impact Assessment has been updated as part of the project plan when changes have occurred and have been fully considered. All the significant changes will be approached in a manner that respect and adhere to the Council's equalities responsibilities. All appropriate advice will be sought from the Strategy, Policy, Relationships and Corporate Assurance Division.

7. Data Protection Impact Assessment Implications

- 7.1 A Data Protection Impact Assessment has also been developed and will be updated as the work to deliver the new contracts is progressed.

8. Conclusions

- 8.1 Contracts for these services were awarded under decision number 18/00030, however provision was not made in that decision to allow new services to join the contract. This further decision seeks authority to open the Dynamic Purchasing System on a regular basis to ensure the appropriate mechanism is in place to award contracts to new services joining the Residential Care Home Services Contract.
- 8.2 The regular opening of the DPS is required to ensure the correct governance and paperwork is in place and to allow existing and new services to join the DPS to address gaps in the market.
- 8.3 The council has statutory duties to ensure that there is sufficient and fit for purpose provision of care services to Kent residents, who are eligible under the Care Act 2014 and that a sustainable market is maintained. Care home services contribute to the offer of services to meet assessed need.
- 8.4 There is currently 16 specialist care home services in Kent not on the DPS through the original tender and KCC commission placements in these homes on old out of date terms and conditions. The estimated combined whole year cost for the 16 existing specialist care home services to join the new contract through the DPS is included in the overall potential cost of £4.4m
- 8.5 Going forward it is expected that the cost for new specialist homes joining the DPS, to meet future requirements, will be off set against a larger number of lower needs services exiting the market. Resulting in a cost neutral or a reduction in overall costs.

8. Recommendation

8.1 Recommendation(s): The Cabinet Member for Adult Social Care and Public Health is asked to:

a) **APPROVE** the use of the Dynamic Purchasing System to enable new services to join the Residential Care Home Contract for people with a learning disability, people with a physical disability and people with mental health needs, and:

b) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to take other relevant actions, included but not limited to entering into and finalising the terms of the contracts or other legal agreement, as necessary to implement the decision.

9. Background Documents

Residential Care for People with a Learning Disability, People with a Physical Disability and People with Mental Health Needs

<https://democracy.kent.gov.uk/documents/s84961/Item%208%20-%20Residential%20Care%20for%20People%20with%20LD%20PD%20and%20MH%20Needs.pdf>

Update on Care Homes contracts for people with a learning disability, people with a physical disability and people with mental health needs

<https://democracy.kent.gov.uk/documents/s92295/Item%209%20-%20Update%20on%20Care%20Home%20Contract%20for%20LDPDMH.pdf>

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