

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TAKEN BY:

Cabinet Member for Adult Social Care and Public Health

DECISION NO:

20/00127

For publication

Key decision Affects more than 2 Electoral Divisions and expenditure of more than £1m

**Subject: COMMUNITY DAY OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES
FRAMEWORK: EXTENSION TO CALL-OFF CONTRACTS WITH PROVIDERS**

Decision: As Cabinet Member for Adult Social Care and Public Health, I agree to:

- a) **EXTEND** the call-off contracts with external providers delivering community day opportunities for Kent residents with a disability for a period of 18 months from 1 April 2021; and
- b) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health to take relevant actions, including but not limited to finalising the terms of and entering into required contracts or other legal agreements, as necessary to implement the decision.

Reason(s) for decision: The Community Day Opportunities for Individuals with Disabilities framework contract is due to expire on 31 March 2021, there is no extension clause, procurement was due to start in 2020. Due to the ongoing situation with COVID, it was not possible to commence any engagement activity. With the situation unlikely to change significantly in the coming months commissioners will not have the time to conduct a full and proper recommissioning process before the contract ends. It is proposed to start the project in early 2021. The future model of commissioning of these services is dependent on the outcome and recommendations of another programme of work, both are within the Making a Difference Everyday (MADE) programme. The recommended course of action, to allow the appropriate time for recommissioning of the future contract, is for the current contracts to be extended for 18 months.

Financial Implications: The estimated total value of the current framework contract over the four-year period, 2017- 2020, was £28,000,000. However, with many clients still on historical individual contracts the actual spend against the framework has been significantly less. The budget for 2019/2020 was £6.4m and the outturn spend was £6.7m. The budget for 2020/2021 is £6.6m.

Legal Implications: As this procurement directly relates to the Covid-19 situation, we are using the following in line with Regulation 32(2)(c):

- *extending or modifying a contract during its term.*

COVID-19 is serious and its consequences pose a risk to life. Regulation 32(2)(c) of the PCRs is designed to deal with this sort of situation.

The regulation states that: *in responding to COVID-19, contracting authorities may enter into contracts without competing or advertising the requirement so long as they are able to demonstrate the following tests have all been met:*

- 1) *There are genuine reasons for extreme urgency, e.g.: you need to respond to the COVID-19 consequences immediately because of public health risks, loss of existing provision at short notice, etc;*
 - *you are reacting to a current situation that is a genuine emergency - not planning for one.*
- 2) *The events that have led to the need for extreme urgency were unforeseeable, e.g.:*
 - *the COVID-19 situation is so novel that the consequences are not something you should have predicted.*

3) *It is impossible to comply with the usual timescales in the PCRs, e.g.:*

- *there is no time to run an accelerated procurement under the open or restricted procedures or competitive procedures with negotiation;*
- *there is no time to place a call off contract under an existing commercial agreement such as a framework or dynamic purchasing system.*

4) *The situation is not attributable to the contracting authority, e.g.:*

- *you have not done anything to cause or contribute to the need for extreme urgency.*

A modification notice will be required through OJEU due to the value and length of the extension.

Equality Implications: An EqIA will be undertaken. These services are for a particularly vulnerable residents and a protected group under the Equalities Act. Key issues identified during COVID: The majority of the day service providers (58%) have been running a hybrid of on-site and remote services.

Cabinet Committee recommendations and other consultation: The proposed decision was discussed at the Adult Social Care Cabinet Committee on 20 January 2021 and the recommendations were endorsed.

Any alternatives considered:

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

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signed

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date

Clair Bell

4 February 2021