

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: **20/00127**

Subject: **Community Day Opportunities for Individuals with Disabilities Framework: Extension to call-off contracts**

Classification: Unrestricted

Past Pathway of Paper: Adult Social Care and Health Directorate Management Team – 13 January 2021
Adult Social Care Cabinet Committee – 20 January 2021

Future Pathway of Paper: Cabinet Member Decision

Electoral Division: Countywide

Summary: 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-19, 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 new procurement project in early 2021.

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

- a) **EXTEND** the call-off contracts with external providers delivering community day opportunities for Kent residents with a disability for 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.

1. Introduction

- 1.1 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.
- 1.2 Due to the ongoing situation with COVID-19, 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.
- 1.3 The recommended course of action, allows the appropriate time for recommissioning of the future contract.

2. Strategic Statement and Policy Framework

- 2.1 The future commissioning model of these services is dependent on the outcome and recommendations of another programme of work, both are within the Making a Difference Every Day (MADE) programme.

3. The Report

- 3.1 The Community Day Opportunities for Individuals with Disabilities framework contract was procured in 2016/17 for a four-year term, expiring at the end of March 2021. There is no extension clause and so re-procurement was due to start in 2020. The proposed timeline was:
 - Market and client engagement: April – July 2020
 - Procurement start: September 2020
 - Contract award: December 2020
 - Mobilisation: January 2021
 - Go live: April 2021
- 3.2 However due to the ongoing situation in the UK with COVID-19, we have been unable to commence any engagement activity. With the situation unlikely to change significantly in the coming months it is expected that commissioners will not have the time to conduct a full and proper recommissioning process before the contract ends.
- 3.3 The Adult Social Care MADE programme (workstream 4) has a project that is currently looking at the future of Day Support Opportunities, which is exploring several options. It is proposed that in order to allow the appropriate time for recommissioning of the contract and following the recommendations of the MADE programme, the current contract is extended for an additional 18 months.
- 3.4 As part of this agreement there should also be a contract variation that takes into account the change in circumstances arising from COVID-19 and the need for different methods of client and provider engagement. This option ensures the services continues to be delivered, provides stability for the provider and

clients at a difficult time, and allows the option of cancelling if the situation resolves itself faster than expected or if the provider fails to deliver an appropriate service.

- 3.5 Discussions around the impact of COVID-19 and how the providers can deliver a service remotely are ongoing, with the suppliers keen to look at alternative options and ways to ensure that the staff we are paying for are best utilised to support those who would normally attend their services.
- 3.6 A provider survey was sent out to all day services providers. The objective was to determine the short, medium and long-term service provision intentions.
- 3.7 In the short-term, in response to Covid-19, the majority of the day service providers surveyed (58%) have been running a hybrid of on-site and remote services. Just under a quarter of providers have been running on-site only services. Five providers (10%) have been offering only remote services and a further five (10%) were not operating any services. All of the providers that were closed had fewer than 10 staff.
- 3.8 With effect from the end of September 2020 most day service providers, of all sizes, anticipate offering a 'quite similar' service model to what they offered before Covid-19, however it is important to note that very few intend to offer an 'identical' service to what they offered in the past, pre-Covid-19. This information was correct prior to the Tier 4 announcements.
- 3.9 Only a small number of day service providers anticipate losing significant number of service-users. The majority of providers (70%) anticipate less than 25% of service-users not returning to the service at the end of September, with just over half (52%) anticipating less than 10% not returning at the end of September. The main reason for service-users not returning is fear of Covid-19.
- 3.10 The financial impact of losing service-users differs dependent upon a number of factors. At one extreme some providers, particularly small providers, anticipate it will have a severe financial impact and will be unsustainable. At the other extreme some providers believe it will be sustainable if they adapt and expand into other income streams.
- 3.11 The factors that were anticipated to have an impact on re-opening were found to be quite diverse and provide insight into the different types of financial challenges service providers have been experiencing including:
 1. Increased ongoing expenses associated with PPE, cleaning and renting more floor space;
 2. Increased capital investment costs for IT equipment and Covid-19 secure transportation;
 3. Reduced income due to reduced demand, reduced capacity, reduced grants and reduced fundraising.
- 3.12 The service models the providers anticipate in the long-term differ due to a number of factors including finances, service type, circumstances, staff numbers, profile of service-users and Covid-19 risk. Some service providers,

particularly larger providers, are looking to expand into new service areas, offer out-of-hours services and reach new customers.

4. Financial Implications

- 4.1 The estimated total value of the current framework contract over the four year period, 2017- 2021, was £28,000,000. However, with many clients still on historical individual contracts the actual spend against the framework has been significantly less.
- 4.2 Budget for 19/20 was £6.4m, outturn spend was £6.7m. Budget for 20/21 is £6.6m.
- 4.3 Any increase for payments to providers in 2021/22 will be in line with approved uplifts.

5. Legal Implications

- 5.1 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.*
- 5.2 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.
- 5.3 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.*

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

6. Equality Implications

6.1 An Equality Impact Assessment will be undertaken.

6.2 These services are for a particularly vulnerable residents and a protected group under the Equalities Act.

6.3 Key issues identified during COVID: The majority of the day service providers (58%) have been running a hybrid of on-site and remote services.

7. Data Protection Impact Assessment Implications

7.1 A Data Protection Impact Assessment has been completed.

8. Conclusions

8.1 The Community Day Opportunities for Individuals with Disabilities framework contract was procured in 2016/17 for a four-year term, expiring at the end of March 2021. There is no extension clause.

8.2 Re-procurement was due to start in 2020. However, due to COVID-19 that has been unable to start.

8.3 The MADE programme has a workstream looking at Day Support Opportunities and will report recommendations during 2021.

8.4 Therefore an extension to the current Community Day Opportunities for Individuals with Disabilities framework call-off contracts for a period of 18 months will allow re-procurement to occur and take account of MADE programme recommendations.

9. Recommendation(s)

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

10. Background Documents

None

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