

KENT COUNTY COUNCIL – URGENT RECORD OF DECISION

DECISION TAKEN BY:

Cabinet Member for Adult Social Care and Public Health

DECISION NO:

21/00078

For publication**Key decision**

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

Subject: Urgent Decision for the retender and appointment of a new provider to deliver 100 places at Princess Christian's Farm

Decision: As Cabinet Member for Adult Social Care and Public Health, I agree to the updated service specification for the provision and to the procurement of a replacement provider, using the Urgent Procurement processes to deliver services at the Princess Christian's Farm and authorise the Corporate Director for Adult Social Care and Health to enter into the necessary contracts following the procurement process and the Director of Infrastructure to finalise the terms of any necessary legal documents including the termination and granting of lease/s to facilitate the service provision at Princess Christian's farm.

Reason(s) for decision: A decision has been taken by North Kent College to concentrate the new Hadlow College's efforts on the provision of education. As such a decision has been made to pull back from additional aspects that the former Hadlow College was previously involved with, many of which were no longer financially viable and / or aligned to the revised direction of North Kent College. One of these has been the decision to not renew the sub-contract for Princess Christian's Farm with the current service provision coming to an end in October 2021.

Options were considered as set out in the attached report including sourcing other arrangements for the 70 service users who access the service by KCC. Given the current limited capacity of other provision due to COVID there is a real challenge in finding suitable alternative provision for those attending the farm, should it close. In order to meet the best interests of the current service users and ensure continued provision it is necessary to secure a new provider for the service.

Financial Implications: The full extent of the financial implications is currently being established, but the initial analysis suggests that taking account of the both the revenue and capital implications any new arrangements may exceed £1million through a mix of one-off and recurring costs. The full financial assessment, including charging related implications, will be undertaken alongside the tender process, taking account of both service and property considerations. There is a £440k revenue budget available over 2 years to maintain a block contract arrangement similar to that which is currently in place. There are also a number of 'spot purchase arrangements with the current provider for additional places above the places available through the block contract. The costs of these additional placements are currently being determined. Any unbudgeted revenue or capital costs, will need to be addressed as part of the budget management process for the current year and in the medium term financial plan for future years.

Legal Implications: It is proposed to use the open urgent procurement process whereby contracting authorities can reduce the minimum timescales for the open procedure, the restricted procedure and the competitive procedure with negotiation if a state of urgency renders the standard timescales impracticable. The minimum time limits vary (see regulations 27(5), 28(10) and 29(10) respectively of the PCRs). For procurements under the open procedure, timescales can be reduced to 15 days for receipt of tenders plus the minimum 10 days for the standstill period.

Contracts and property documents including the withdrawal and implementing new leases will be

required to be put in place to support the service requirements. The detail of these will be aligned to the providers proposals. The transaction may also require the transfer of assets including machinery and livestock. External legal advice will be sought in consultation with General Counsel.

Equality Implications: The service at Princess Christian's Farm is attended by those living with a learning disability and or autism and so any decisions related to the service provision will affect those individuals and or their families/carers.

The service is mainly attended by those living in the West Kent area, although there are a few individuals that travel from further afield in Kent or from outside the County.

As the proposed decision is to replace the service like for like – no negative implications were found through the EqIA.

Reason for Urgency: The current provider's licence to run the service is due to expire on 31st October 2021. Urgent procedures are required to ensure enough time is allowed to award a contract and allow TUPE transfer negotiations before the new provider can take over running of the service.

Awaiting results of the survey to know if the farm was viable for procurement. There was uncertainty on the state of the farm buildings and whether this could have an impact on interested providers. Therefore the results of the survey were required before KCC would be in a position to take an informed decision, with procurement viability having been successfully confirmed.

It was unclear of market interest in taking over the provision / farm. Going to market without gauging interest from the market would have been high risk, especially on the potential impact of those attending the farm, should a new provider not be found.

Member and other consultation:

No Cabinet Committee consultation possible due to urgency process.

The Chair of the Scrutiny Committee, in addition to agreeing that the decision could not be reasonably deferred provided the following comments:

Mr Booth supported the decision.

The Group Spokespeople of the Scrutiny Committee providing the following comments:

Dr Sullivan stated:

The paper describes the current provider being unable to or unwilling to continue this contract.

Do we know the reasons for the provider not being able to proceed with the contract and what are the reasons?

What assurance can KCC give us that this service and facility will continue to be provided?

What assessment was done to provide financial viability for the service over the lifetime of the contract and that KCC hasn't set the contract to fail from the start?

The options described in the associated paper are very limited and restricted to 'the market'. Again due to the late nature of this decision notice further options can not be explored and this decision will be taken based on the political policy choice of going to the 'market' based on being a 'Commissioning Authority'. Consequences and risks of going to 'the market' are that sometimes the market cannot deliver for whatever reason, leaving a gap in provision, which can cause significant stress and anxiety for those involved. The associated report does not consider the valid option of KCC delivering this service itself, in the short or the long term, especially given KCC own the site. Without knowing the costs or advantages or disadvantages of delivering of this service in-house members will be unable to come to a balanced or informed position on this matter. When assessing the possibility of 'in-house' or 'inside-KCC' provision the costings should also consider the cost of KCC staff time tendering contracts and negotiating with the 'market' balanced with the greater weighting of securing the provision and thereby significantly reducing the anxiety faced by people attending this site and those who work there.

What work was done and what were the outcomes of investigating KCC to run the farm in the short and long term?

What has been done to assure the confidence of continuation of this facility to the people that attend this farm and work at this farm?

My understanding of the communication of this situation was handled terribly, either by KCC or the provider which provoked stress and anxiety among the people using the facility and their families. As a consequence of the uncertainty and talk of viability of the site, has meant that a number of staff have looked for more stable employment elsewhere which is a loss to the site and the members of our community that use this facility.

Where is the accountability for this failure monitor the contact to ensure continuity of service?

How long have we known that the provider were looking to stop providing this contract?

What is the communication procedure and who is accountable for the concerning information and KCC's response to giving hope and certainty of service?

These question need answers and I propose that this decision comes to the next available Scrutiny Committee for further questioning under item C, not called-in so no delay in the decision but is still able to be scrutinised by members of the committee following the decision being made.

The Chair and Group Spokespeople of the Adult Social Care Cabinet Committee provided the following comments:

Ms Grehan stated:

I first became aware of the situation at Princess Christian Farm on 1st July when a resident in my division who has a son attending the Farm contacted me saying she had heard it was closing, via social media.

Since then I've had contact with many people from the Save Princess Christian Farm campaign and I can see from this how much the farm means to them and how much the attendees benefit from it. I believe it is imperative this facility remains open.

I am thankful to Clair Bell for speaking to me about the situation and for the personal interest she has shown in the farm.

However, I think this situation shines a light on bigger problems with contracts, tendering and the instability this brings, both for KCC and those that use the services tendered out. It is highly unfortunate that this period of uncertainty around the farm's future has brought such stress upon our service users and their families. My understanding is that a number of staff have left in this period too. I wonder why KCC could not avoid this through running the services in-house.

I very much hope for a positive outcome in this matter and that lessons are learnt to avoid such issues in future.

Any alternatives considered:

The potential of the farm closing has been considered throughout this process as set out above, and work remains underway should the process to find a new provider not be successful. Adult Social Care colleagues are meeting with all individuals that attend the far and their families / carers to discuss possible alternatives to attending the farm.

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

N/A

Clair Bell

1 September 2021

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signed

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date