

From: Clair Bell, Cabinet Member for Adult Social Care and Public Health
Richard Smith, Corporate Director Adult Social Care and Health

To: Adult Social Care Cabinet Committee – 18 January 2022

Decision No: 21/00102

Subject: **CARE HOMES CONTRACTS FOR PEOPLE WITH A LEARNING DISABILITY, PEOPLE WITH A PHYSICAL DISABILITY AND PEOPLE WITH MENTAL HEALTH NEEDS**

Classification: Unrestricted – Exempt Appendix (exempt from publication by Schedule 12A to the Local Government Act 1972, as it contains commercially sensitive inform

Past Pathway of Paper: Adult Social Care Governance Board - 26 October 2021

Future Pathway of Paper: Cabinet Member decision

Electoral Division: All

Summary: To inform the Adult Social Care Cabinet Committee on the outcome of the recent procurement activity to add providers to the existing contract for care home services for People with a Learning Disability, People with a Physical Disability and People with Mental Health Needs and to request approval to award new contracts from March 2022

Recommendation(s): The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **ENDORSE** or make **RECOMMENDATIONS** to the Cabinet Member for Adult Social Care and Public Health on the proposed decision (attached as Appendix A) to:

- a) **AWARD** contracts to provide residential care for People with a Learning Disability, People with a Physical Disability and People with Mental Health Needs to the successful bidders as identified following a procurement process and detailed in exempt appendix 1; and
- b) **DELEGATE** authority to the Corporate Director 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 Kent County Council's (KCC) Strategic Commissioning unit was commissioned to procure further provision under the Residential Care Services for Adults with a Learning Disability (LD), Adults with a Physical Disability (PD) and Adults with

Mental Health (MH) Needs 2020 contracts. Following a previous procurement exercise in 2019/20 Residential Care Home contracts were awarded in June 2020 under decision number 20/00030, however provision was not made in that decision to allow new services to join the contract.

- 1.2 Before the 2019/20 procurement exercise, Residential Care Contracts for People with a Learning Disability and People with a Physical Disability were last let in 2002 while contracts for People with Mental Health Needs were let in 2004. For services that did not tender in 2019/20, most placements are linked to historic Terms and Conditions, which do not reflect current KCC practise and do not meet the current more stabilised pricing of placements.
- 1.3 Recommissioning of these contracts comes with a risk in terms of financial impact, however when balanced with the risk to the council on the legality of the existing contracts, it is necessary to understand full exposure of the council's liability.
- 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 £108m of spend on care home provision, but no guarantee is given as to the actual value of the Contract Lot 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 Owing to the complexity of the various Service Specifications and in line with Commissioning for Success guidelines, it was agreed that the Competitive Procedure with Negotiation would be used.
- 1.7 In-depth detailed work carried out by Strategic Commissioning, Commissioners and Finance Teams identified what is currently being commissioned from providers, what is being delivered and at what cost.
- 1.8 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.
- 1.9 To progress in developing the offer of services, the 2020 LDPDMH Care Home Contract aligned and dovetailed with the commissioning of Phase 2 of the Care and Support in the Home Contract - Supported Living. This gave a clear message to the market and reduced unnecessary duplication internally as well as with providers who chose to tender for both service types.
- 1.10 Market and stakeholder engagement was undertaken to gather views around shaping the 2020 contracts and how services could best be managed in the future. Engagement for the recent procurement exercise included three virtual

provider engagement events in March 2021 where the council outlined its intentions for the new services, the project timeline and the procurement process.

- 1.11 This report summarises the commissioning intentions, procurement process and evaluation, together with recommendations for the award of this contract.

2. Strategic Statement and Policy Framework

- 2.1 Kent County Council Strategic Commissioning unit managed the procurement exercise for these contracts. 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 and the strategic direction for delivery of adult social care services in Kent.
- 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 and that, should any change be required, there is incorporate across into all the relevant policies and guidance.

3. Commissioning Intentions

- 3.1 The 2020 Care Homes Contracts brought a well-managed contract for adult social care and to have systems and measures in place to manage its day-to-day operational requirements. This includes:
 - Key Performance Indicators (KPIs). Ongoing management and monitoring of quality ensures that all providers remain compliant to their contractual commitments
 - Purchasing. A requirement for a more efficient, streamlined purchasing function, that minimises bureaucracy and is responsive to the levels of demand. Efficiency could be enhanced with improved procedures and processes.
 - Systems. More effective use of systems to record the contracts and fees and to enable automated payments to providers.
 - Contract Management. Regular communication with the market continues to strengthen the relationship. With over 200 care homes the resource is very intensive to contract manage this service. Regular analysis of KPI's, and management information for quality of care and improved contract monitoring.
- 3.2 The contract scope included both long term and short-term placements and the ability to contract with care homes that are based outside of Kent. During the lifetime of the contract it will be open to include our strategic health partners e.g. Clinical Commissioning Groups (CCG) and the commissioning and contracting

of Continuing Healthcare (CHC) placements. The integration of commissioning and contracting arrangements is a key priority to release efficiencies and better manage the whole market.

- 3.3 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.
- 3.4 To accelerate the shift in the market two contracts have been established. 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.
- 3.5 To continue to progress in developing the offer of services, the new Care Home Contract aligned and dovetailed with the commissioning of Phase 2 of the Care and Support in the Home Contract - Supported Living.
- 3.6 The diagram below illustrates the aims and intentions to change services to meet future needs and demand and to shape the market to respond to the demand.



- 3.7 Work is underway between the Adult Social Care and Health Directorate and the Strategic Commissioning Division to deliver a plan to grow a joint culture for change in approach and to review the current internal procedures and processes to support the new contract

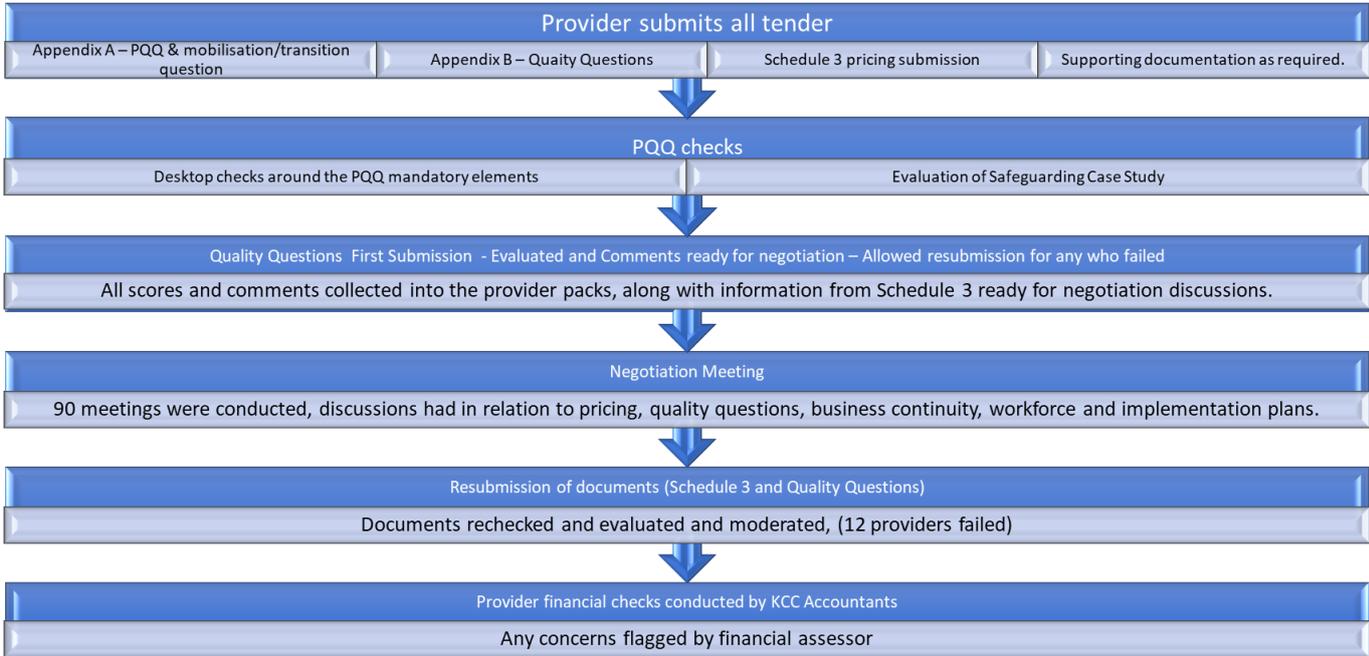
3.8 Procurement process

3.8.1 This procurement process was divided into the following lots:

3.8.2 Lots 1 & 2 form the basis of the Learning Disability, Physical Disability and Mental Health Care Residential Home Services.

- Lot 1 (LD, MH & PD Residential Care Home Services – Specialist & Specialist Plus Needs)** includes those individuals aged 18+ who have been assessed as requiring a residential care service, whose primary assessed need is in relation to a Learning Disability, Physical Disability, or Mental Health, and whose level of need has been assessed as Specialist. Full details for this requirement can be found in the service specification. The Council wishes to establish a Dynamic Purchasing style System for these services.
- Lot 2 (LD, MH & PD Residential Care Home Services – Mid and High Level Needs)** includes those individuals aged 18+ who have been assessed as requiring a residential service, whose primary assessed need is in relation to a Learning Disability, Physical Disability, or Mental Health, and have been assessed as having mid to high level needs. Full details for this requirement can be found in the service specification. The Council intends to enter into a Framework Agreement with selected providers for these services.

3.8.3 The illustration below shows the Procurement process taken



3.8.4 Table 1 below shows the Procurement Timetable

Table:1 Procurement Timetable

Activity	Date
Publish advert and ITT	24 March 2021
Deadline to submit requests for clarification via the Kent Business Portal	16 April 2021
Closing date and time for Tender Submissions	4pm on 23 April 2021
Tender Evaluation Period	26 April – 28 May 2021
Negotiation Period	17 May – 28 June 2021
Tender resubmission	2 June -9 July
Moderation	30 April – 28 May 2021
Award Clarification Meetings	February 2022
Contract Award* and Standstill	February 2022
Contract Commencement Date	14 March 2022

3.8.5 Following closure of this opportunity:

- 130 providers submitted a response; many providers submitted for multiple lots.
- 23 providers withdrew from the process ahead of the tender deadline.
- 282 providers who had initially expressed an interest in the tender process at the Expression of Interest stage prior to the ITT did not go on to submit a response.
- Of the 130 providers who submitted a response, 99 of these passed the initial selection criteria evaluation.
- 66 providers passed the Quality Question criteria in the first instance. Providers who did not meet these requirements were allowed to resubmit within a set timeframe.

* Note: the responses above are responses for all lots advertised in the opportunity including, Phase 2 of the Care and Support in the Home Contract - Supported Living.

3.8.6 Full details of providers who took part in the Procurement process can be found in Appendix 1. **This is a Restricted Appendix that is exempt from publication by Schedule 12A to the Local Government Act 1972, as it contains commercially confidential information.**

4. Financial Implications

4.1 In-depth detailed work carried out by Strategic Commissioning, Commissioners and Finance Teams identified the potential cost to move services from the recent tender onto the 2020 contracts.

4.2 Table 2 (below) shows the estimated maximum cost increase to move services from the recent tender on to the 2020 contracts.

Summary	Maximum Potential Increase
	£000's
Annual increase tendered services	£2,542

4.3 A detailed breakdown of all tendered, placements and costs can be found in the exempt appendix.

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 will be used. There will need to be resource allocated at the end point of the contract award for contracts to be signed and sealed. The 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 is 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 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.

8.2 Before the 2019/20 procurement exercise, Residential Care contracts for People with a Learning Disability and People with a Physical Disability were last let in 2002 while contracts for People with Mental Health Needs were let in 2004. For services that did not tender in 2019/20, most placements are linked to historic Terms and Conditions, which do not reflect current KCC practice and do not meet the current more stabilised pricing of placements.

8.3 Comprehensive work has been carried out in developing the new contract to minimise the disruption to individual affected by these contracts and to minimise the risk to the council.

8.4 To accelerate the progress in developing the offer of alternative services, such as Supported Living, consistent with national strategy. The 2020 Care Home Contract aligned and dovetail with the commissioning of phase two of the Care and Support in the Home Contract - Supported Living. The procurement process worked in parallel for both contracts. This gave a clear message to the

market and reduced unnecessary duplication internally, as well as for providers who choose to tender for both service types.

- 8.5 A thorough procurement process was undertaken in accordance with the Public Contract regulation 2015 (PCR15).
- 8.6 Develop the work that is underway between the Adult Social Care and Health Directorate and the Strategic Commissioning Division to deliver a plan to grow a joint culture for change in approach and to review the current internal procedures and processes to support the new contract

9. Recommendation(s)

9.1 Recommendations: The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **ENDORSE** or make **RECOMMENDATIONS** to the Cabinet Member for Adult Social Care and Public Health on the proposed decision (attached as Appendix A) to:

a) **AWARD** contracts to provide residential care for People with a Learning Disability, People with a Physical Disability and People with Mental Health Needs to the successful bidders as identified following a procurement process and detailed in exempt appendix 1; and

b) **DELEGATE** authority to the Corporate Director 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

Decision 20/00030 - Residential Care for People with Learning Disabilities, Physical Disabilities and Mental Health Needs

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2354>

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