

# KENT COUNTY COUNCIL – RECORD OF DECISION

## DECISION TO BE TAKEN BY:

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

## DECISION NO:

23/00032

**For publication** *[Do not include information which is exempt from publication under schedule 12a of the Local Government Act 1972]*

**Key decision: YES**

## Subject Matter / Title of Decision

Kent Drug and Alcohol Contract Commissioning

## Decision:

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

- I. **APPROVE** the procurement of the Residential Recovery Housing contract for the period from 1 April 2024 to 31 March 2028 (four years) with two additional two-year extension options.
- II. **APPROVE** the extension of the contracted East Kent Community Drug and Alcohol Service, West Kent Community Drug and Alcohol Service and Young Persons Drug and Alcohol service for a period of 10 months from 1 April 2024 to 31 January 2025.
- III. **DELEGATE** authority to the Director of Public Health to take relevant actions, including but not limited to, entering into and finalising the terms of relevant contracts or other legal agreements, as necessary, to implement the above decisions.

## Reason(s) for decision:

As part of its statutory responsibilities as a condition of its Public Health Grant, KCC commissions specialist Substance Misuse Services to reduce the harm caused by drugs and alcohol and improve the health and wellbeing of the Kent's population. Kent Drug & Alcohol services are made up of 4 contracts: West Kent Drug and Alcohol Service, East Kent Drug and Alcohol service, Recovery Housing and the Young Persons Drug and Alcohol Service. All the contracts are due to expire on 31 March 2024.

Extending the East Kent Community Drug and Alcohol Service, West Kent Community Drug and Alcohol Service and Young Persons Drug and Alcohol Service contracts by a further 10 months will enable clarity to be obtained over the continuation of funding under the Government's 10 year From Harm to Hope Strategy, of which only 3 years of funding has been confirmed. Extending the contracts will therefore enable the Council to:

- Protect vulnerable service users from the impact of procurement during a time of funding uncertainty which will be obtained through a 10-month extension.

- Approach the market with a tender opportunity that has consistent levels of funding over the life of the contract. Retendering the services in line with their current end date comes with the risk of having to procure services after a year into the new contract should the continuation of funding mean the newly procured contracts are no longer fit for purpose.

To procure the Residential Recovery Housing service for an 8-year contract opportunity (four years with two additional two-year extension options) in readiness for the existing contract's expiry on the 31 March 2024. The procurement is necessary as contracts expire on the 31 March 2024 and to offer the opportunity to the market which has evolved over the course of the contract.

### **Financial Implications**

It is estimated there will be a financial commitment as below for each contract recommended for a 10 month extension

- East Kent Drug & Alcohol Service: £6,498,752
- West Kent Drug & Alcohol Service: £5,036,404
- Young Persons Drug and Alcohol Service contract: £895,822

For the Recovery Housing Contract, Public Health estimate a financial commitment of £1,752,993 for the full eight-year term of the contract (4 years + 2 additional 2 year extensions).

The contracts are fully funded from the Office of Health Inequalities and Disparities via the Public Health Grant and other associated grants.

- **Legal Implications**

Under the Health and Social Care Act 2012 [8], Directors of Public Health (DPH) in upper tier (UTLA) and unitary (ULA) local authorities have a specific duty to protect and enhance the population's health.

All grant funded activities will be procured in accordance with the Public Contracts Regulations 2015 (as amended) and will follow national guidance and best practice in relation to drug and alcohol treatment and interventions.

In connection with the three proposed contract extensions KCC may extend in accordance with either the original contract terms or on the basis of the grounds available in Regulation 72(1)(b) of the Public Contracts Regulations 2015.

Transfer of Undertakings (Protection of Employment) (TUPE) will likely apply for the procurement of the Recovering Housing Contract. Public Health will work closely with the incumbent provider and new provider to ensure TUPE is adhered to.

- **Equalities implications**

An Equality Impact Assessment (EQIA) has been completed for the recommissioning of the service. Current evidence suggests that there is no potential for discrimination and that this option is an appropriate measure to advance equality and create stability for vulnerable people.

Once a provider is selected in the procurement process an EQIA will be conducted on their proposed delivery model.

- **Data Protection implications**

General Data Protection Regulations are part of current service documentation for the contract and there is a Schedule of Processing, Personal Data and Data Subjects confirming who is data controller/ processor. There is also an existing Data Protection Impact Assessment (DPIA) relating to the data that is shared between KCC, the provider and the Office for Health Improvement and Disparities (previously named Public Health England) and the services.

Public Health are producing a new DPIA as part of the re-commissioning process as there will be a transfer of data between the incumbent and new provider.

**Cabinet Committee recommendations and other consultation:**

The proposed decision was discussed at the Health Reform and Public Health Cabinet Committee on the 11 July 2023 and the recommendations were endorsed.

**Any alternatives considered and rejected:**

Decommissioning the service is a non-viable option that would contravene the local authority's responsibility to deliver drug and alcohol treatment and recovery services, the terms and conditions of grant funding received and both national and local strategies.

Retender the service for all 4 contracts – This would provide an unstable contracting opportunity to the market given uncertainty over funding and would negatively impact the vulnerable service users the services support. Additional grant funding is intertwined with existing contracts and to retender all contracts now would result in commissioner having to reduce funding significantly within the first year of the contract due to unconfirmed continuation of grant funding.

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

None

Clair Bell

2 August 2023

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signed

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date