

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TAKEN BY:

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

DECISION NO:

23/00061

For publication

Key decision: YES

Title of Decision: **CARERS' SHORT BREAKS SERVICE**

Decision: As Cabinet Member for Adult Social Care and Public Health, I
a) **APPROVE** a Direct Award Contract to Crossroads Care Kent for a period of twelve months (1 April 2024 to 31 March 2025) for Carers' Short Breaks Services; 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.

Reason(s) for decision: Kent County Council (KCC) has statutory responsibilities under The Care Act 2014 which include assessing the needs of any adult (cared for or carer) with an appearance for care and support, and arranging services, where appropriate meeting the unmet eligible needs of adults living in Kent. The Carers' Short Breaks Service provides replacement care for carers to enable them to have a break from their caring role, attend medical appointments and/or if they are unable to care for their loved one due to illness or other unforeseen circumstance have the peace of mind that their loved one will be looked after. The service is jointly funded by the Kent and Medway Integrated Care Board (ICB) and Kent County Council.

This is currently delivered through the contract 'Carers' Short Breaks Service' which delivers services to support carers countywide and is held with Crossroads Care Kent, this will expire on 31 March 2024. A Direct Award to the incumbent provider will allow the opportunity to co-produce a new offer for carers which ensures a seamless interface between the Community Navigation Service and Carer's Short Breaks Service contract sufficient time required to complete that work.

Financial Implications: At the present time the value of the contract is expected to remain the same, although this may be subject to change given current budgetary pressures. The current total annual value of the service is £3,087,241 of which KCC contributes £2,501,894 and the Kent and Medway ICB contributing the remainder, £585,347.

Legal Implications: The council is in a similar position to last year in that it will be taking a risk-based approach in relying on regulation 32(2)(b). In summary, the services are necessary and will allow KCC to align its procurement of future services with the ICB future strategy and also to ensure coordination with the providers of carers' assessments.

Therefore Regulation 32 of the Public Contracts Regulations 2015 will be used on the basis that it is rational to rely on the justifications listed above. The risk to the council is that an alternate service provider will bring a legal challenge, arguing that the justifications do not satisfy Regulation 32.

Officers will mitigate the risk of such a challenge by publishing a Contract Award Notice on the

central government "Find a Tender Service". This will notify the market of the council's intention to award this contract under Regulation 32 and start the 30-day time limit in which procurement challenges must be brought. This will have the effect of flushing out and/or time-barring any procurement challenge, allowing the Council to make the direct award with confidence once the 30-day time period has expired.

Commissioners will follow the Public Contract Regulations (2015) and the Spending the Council's Money in relation to any procurement that is undertaken.

This service helps to enable Adult Social Care and Health (ASCH) teams to meet their requirements under the Care Act (2014), under which KCC has a statutory duty to provide respite care for carers.

Equality Implications: An Equality Impact Assessment has been undertaken for this proposed extension and this indicates no negative impacts on carers as the continuity provided to people who draw on care and support with an extension to the contract allows the outcomes of the Kent Carers' Strategy to be embedded within the future service design, whilst keeping consistency of service for unpaid carers in the interim. It will also allow the opportunity to understand the performance and trends of the contract to better inform and scope the design and recommissioning of the service in a truly co-produced way.

Data Protection Implications: A Data Protection Impact Assessment is in progress and will be updated as this work progresses, and further details are known.

Cabinet Committee recommendations and other consultation: The proposed decision was discussed at the Adult Social Care Cabinet Committee on 6 July 2023 and recommendations were endorsed.

Any alternatives considered and rejected:

End the contract on 31 March 2024

Whilst it is recognised that ending these contracts could deliver a significant saving to the council, ending the contract was dismissed at this point for the following reasons:

- Loss of current support to vulnerable people at a time when other services are being reduced.
- People accessing the contract may fall into crisis resulting in a high financial pressure on Kent County Council operational services (negates possible benefit of saving on the contract value)
- Increased isolation and loneliness to unpaid carers.
- Statutory duties non-compliance under the Care Act 2014.

Reprocure the contract within a short timeframe

Reprocuring within a short timeframe was dismissed, owing to a lack of clarity as to funding in the present financial climate, current Integrated Care Board financial pressures, current workforce implications, and the additional pressures on Adults Strategic Commissioning resource at present. The council is also not assured there are currently reasonable alternatives in the market that could mobilise in such a short space of time.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: None

Clair Bell

2 August 2023

Signed

date