

From: **Sue Chandler, Cabinet Member for Integrated Children's Services**

Sarah Hammond, Corporate Director of Children, Young People and Education

To: **Children, Young People and Education Cabinet Committee – 9 July 2024**

Subject: **Direct Payment Support Services for Children and Young People**

Decision Number: **24/00051**

Classification: **Unrestricted**

Past Pathway of report: Not Applicable

Future Pathway of report: Not Applicable

Electoral Division: All

Summary: This report provides the Children, Young People and Education Cabinet Committee with the background and rationale to commission a Direct Payment Support Service contract for an initial period of three years from 1 April 2025 to 31 March 2028 with an optional 24-month extension period, based on the performance of the contract and other influencing factors at the time.

Recommendation(s):

The Children, Young People and Education Cabinet Committee is asked to **CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS** to the Cabinet Member for Integrated Children's Services, in consultation with the Cabinet Member for Education and Skills on the proposed decision to;

A) Approve the commencement of a procurement to commission the Direct Payment Support Service for a period of 1 April 2025 to 31 March 2028, with an optional up to 24-month extension.

B) Delegate authority to award the contract to the successful provider to the Corporate Director for Children, Young People and Education in consultation with the Cabinet Member for Integrated Children's Services.

C) Delegate authority to the Corporate Director for Children, Young People and Education to take other relevant actions, including but not limited to finalising the terms of and entering into required legal agreements, as necessary to implement the decision.

1. Introduction

- 1.1 Kent County Council has a statutory duty to offer a personal budget, which can be administered via a Direct Payment (DP), to people who are eligible for services assessed by the County Council.
- 1.2 A DP is the amount of money needed to cover the cost of the support (i.e. services, including care) for which a person is eligible. KCC must ensure that people are given relevant and timely information about DPs to decide whether to request a payment and how to use and manage this payment appropriately. The Special Education Needs and Disability (SEND) reforms in 2014 placed a further duty on Education, Health, and Social Care to increase the use of personal budgets, which could be taken as a Direct Payment, to meet the needs of children and young people with SEND.
- 1.3 Direct Payment entitlement spans Children, Young People and Adults and are covered by two distinct legislative frameworks; the Children's Act 1989 as amended by Sections 17A (inserted by the Health and Social Care Act 2001) and 17B (inserted by the Carers and Disabled Children Act 2000) and the Care Act 2014. As such, the administration of the current commissioned service for 0-25 sees the current provider managing the set up and monitoring of Direct Payments until the young adult completes their Education. The administration of the Direct Payment is then transferred to Adult Social Care and Health (ASCH) to focus on the social care requirements to meet the needs of the individual.
- 1.4 The Strengthening Independence Service (SIS) in the Children, Young People and Education (CYPE) Directorate promotes the use of Direct Payments well, to the point that DP's account for 64% of provision; however, DP's represents 18%¹ of total spending, demonstrating good value for money.
- 1.5 CYPE currently commissions the Direct Payment Support Service (DPSS) from a not-for-profit provider of Children's and Young People Services. The service is open to:
 - Parents and carers of disabled children
 - Parents and carers of children in receipt of an Education Personal Budget
 - Young people aged 18-25 in receipt of an Education Personal Budget
 - Young disabled people aged 18-25
- 1.6 As a part of the Making a Difference Everyday programme, ASCH is redesigning their self-directed support offer, and the opportunity to align the two DP services to create an integrated service for both CYPE and ASCH was explored. ASCH confirmed that they are currently not in a position to enter a joint commissioning arrangement at this time, and as such, the option of commissioning an integrated service has been discounted for this contract term.
- 1.7 CYPE have developed the specification around the views and opinions of families and people who use the current service and have sought these views through a variety of surveys over the last three years.

¹ Excludes looked after children

- 1.8 A clear theme from all surveys focuses on families' challenges in sourcing and retaining a Personal Assistant (PA). The main areas where families identified improvements that would lead to better retention and recruitment of PAs were:
1. Higher wage rates
 2. More information/guidance from DPSS about recruitment
 3. Standard templates for job descriptions, job adverts and interview guidance
- 1.9 Points 2 and 3 can be met through no or minimal expense by improving Information, Advice and Guidance (IAG) from the Direct Payment Provider, this is further supported through survey findings undertaken in 2023 where 84% of total respondents² who found finding a PA challenging or extremely challenging cited having Standard templates for job descriptions, job adverts and interview guidance would be helpful.

2. Current Position

- 2.1 The Direct Payment Support Service for Disabled Children and Young People has been commissioned since 2008. The current provider, We Are Beams, has delivered the service since it commenced and has performed well against Key Performance Indicators. Feedback from service recipients³ and other key stakeholders indicates a good-quality service that meets expectations.
- 2.2 The current service provides Information, Advice and Guidance (IAG), Direct Payment Set-up and Monitoring Services.
- 2.2.1 IAG on employment of Personal Assistants (PA), including support to ensure compliance with employment law.
 - 2.2.2 Direct Payment Set-up, initial contact and developing costs in preparation to submit to KCC Finance for processing. Support the management of transition of the DP where recipients go from childhood to adulthood.
 - 2.2.3 Monitoring Services, including statutory monitoring of DP's and notification of unspent funds that are eligible for KCC to reclaim.
- 2.3 The current contract ends on 31 March 2025 with no further available extensions and therefore KCC are required to undertake commissioning activity to determine the options for the Direct Payment Support Service.
- 2.4 Work has concluded to understand the current context in which the service will function, including engagement with staff within the Strengthening Independence Service and service user groups. There have also been several market engagement events and the model has been tested with providers during events that have been advertised on the Kent Business Portal.
- 2.5 Kent Analytics developed forecast capacity for Direct Payment recipients to understand the current and forecasted demand into a Direct Payment Support Service over the next five years. Contracted capacity is predicted to remain stable.

² 206 respondents

³ The term recipients is used to describe either parents/carers of disabled children or the young adult

- 2.6 The successful provider will be required to deliver the service in line with two separate KCC Direct Payment policies. The Direct Payment Policy and Practice Guidance for ASCH as it relates to DP recipients who receive a social care DPs aged 18 and over, and the CYPE Direct Payment Policy and Practice Guidance as it relates to DP recipients under 18 years of age as well as those DP recipients who access an Education Personal Budget. As a result of this, case thresholds for social care DPs for Adults and for Children, and DPs for children and young people in receipt of an Education personal budget shall be separately defined in the service specification.
- 2.7 The Direct Payment Support Service will support children and young people to achieve the following outcomes.



2.8 The predicted forecasts of activity are:
Social Care DP Forecast (0-17)

Average Number of Cases each Month	
Lower Threshold	Upper Threshold
698	827

Social Care DP Forecast (18-25)

Average Number of Cases each Month	
Lower Threshold	Upper Threshold
316	400

Education DP Forecast

Average Number of Cases each Month	
Lower Threshold	Upper Threshold
75	112

3. Options

3.1 An options appraisal has been undertaken collectively with Commissioners, staff across CYPE and Finance. The following options were considered.

3.1.1 **Option 1 - Do nothing.** The Direct Payment Support Service will cease on 31 March 2025. Therefore, CYPE will have to make alternative plans to administer and support CYPE Direct Payments as part of KCC's statutory duty. This option is discounted.

A detailed Make or Buy Assessment was completed. Overall, the recommendation was to 'Buy' this Service due to the cost of direct provision and also increasing the headcount to the County Council. Following this, further options for buying the service were considered below.

3.1.2 **Option 2 - Commission an enhanced service (compared to that of previous years) which includes the recruitment and retention of Personal Assistants, in addition to the set up and monitoring of Direct Payments.** A key reason for poor recruitment and retention of PAs is the low wage, without the Cost Setting Guidance being reviewed, it is unlikely a provider could resolve these issues and therefore the risk of not being able to achieve this performance indicator is too high. The appetite for additional spend with no guarantee of a clear cost benefit is low given the councils current financial situation. This option is discounted.

3.1.3 **Option 3 – Commission a Direct Payment Support Service for Set up and Monitoring with PA Recruitment and Retention, Peer Support and PA Workforce Development included and Support Brokerage to be commissioned with ASCH.** This would require a significantly higher budget with insufficient evidence on a return within the required timeframe. This option is discounted.

3.1.4 **Option 4 – Commission a Direct Payment Support Service with the Specification to continue in its current form with some signposting to other resources on PA Recruitment and Retention with PA Peer Support included.** This option will ensure that KCC meets its statutory duty to provide DPs, whilst supporting the development of PA Peer Networks. PA Peer Networks will provide an environment for PAs to share knowledge, experiences and be a direct link to the Council to inform future strategy. A break clause written into the contract will allow potential for future joint commissioning opportunities with ASCH, should they be in a position to do so within the three-year contract term,

3.2 The preferred option is Option 4 - The Specification for the Direct Payment Support Service to continue in its current iteration with some signposting to other resources around PA Recruitment and Retention, PA Peer Support included. This was identified as the best option available to KCC within the available timeframe and budget. This allows a competitive procedure with known service gaps addressed in a cost-effective way and provides value for money whilst continuing to fulfil our statutory obligations.

4. Procurement route

- 4.1 The recommended procurement approach will be a modified one stage Competitive Procedure with Negotiation. KCC is seeking to develop the Specification in co-production with providers (in order to maximise added value), flexibility of negotiation will be required. Within the context of a small market, the one stage Competitive Procedure with Negotiation has been assessed as the most advantageous because it will maximise the market's uptake whilst reducing the timescale and resources required for the procurement process.
- 4.2 The process and the precise nature of any potential points for negotiation will need to be made clear in the Contract Notice and any applicable tender notices, documents and guidance. As will the process of negotiation, and any clarifications/changes that result from this negotiation, to ensure maximum fairness and transparency for all bidders participating in the tender.
- 4.3 The planned timeline is outlined below:

Procurement Timetable	Timeline 2024
Market Engagement	W/C 22 April
Contract Notice / Prior Information Notice	W/C 1 May
Expressions of Interest Received	W/C 13 May
Finalise draft Specification for Service and Invitation to Tender (ITT) Documents	29 March
Approve Specification for Service and ITT Documents	W/C 11 July
Selection Questionnaire (SQ) and ITT issued to Tenderers	1 August
Clarification Questions Deadline	20 September
SQ and ITT Deadline	1 October
Evaluation	1 October – 11 October
Moderation	11 October – 15 October
Clarification/Negotiations (if required)	15 October – 29 October
Submitted/Clarified revised offers	29 October – 12 November
Award Recommendation Report Developed	22 November – 2 December
Award Recommendation Approved	2 December – 6 December
Contract Award Notification	9 December 2024
Standstill Begins	10 December 2024
Standstill Ends	20 December 2024
Provider Planning Meeting	W/C 3 January 2024
Mobilisation Period (Start)	3 January 2024
Contract Start Date	1 April 2025

5. Financial Implications

- 5.1 The Direct Payment Support Service is funded from the Children's Disability 0 - 18 Commissioning Revenue Base Budget, with financial contribution from Special Education Needs and Disability Service and Adults Social Care and Health, for Direct Payments where an education need is identified and where the DP recipient is a young disabled adult in an education setting. Further contributions are to be sought from the Integrated Children's Services Social Care teams to cover the cost of managing the DPs within their caseloads.
- 5.2 The cost of delivering the service over the full potential five-year period, 1 April 2025– 31 March 2030, is estimated to be £2,946,471.
- 5.3 The current (and future) contract requires the Provider to notify KCC of any unspent Direct Payments for reclaim. The following shows the values as identified by the current Provider:
- 2019/2020 – Total of £1,093,509 (Social Care = £1.07m / Education = £31.2k)
2020/2021 – Total of £1,281,465 (Social Care = £1.2m / Education = £61.7k)
2022/2023 – Total of £1,604,481 (Social Care = £1.34m/ Education = £259.2k)
2023/2024 – Total of £2,447,466 (Social Care= £1.87m/Education £570k)
- 5.4 The cost of undertaking this procurement exercise is estimated as £81,795.

6. Legal implications

- 6.1 Direct Payments for parents or carers of disabled children are a statutory duty under the Care Act 2014, Section 117(2c) of the Mental Health Act 1983, Children Act 1989 as amended by Sections 17A (inserted by the Health and Social Care Act 2001) and 17B (inserted by the Carers and Disabled Children Act 2000).

7. Other Corporate implications

- 7.1 Finance, Safeguarding and Health and Safety teams will be required to support the evaluation of tender submissions.
- 7.2 The Commercial and Procurement Division will draft the Terms and Conditions (with input from CYPE) based on KCC's Standard Terms and Conditions.
- 7.3 The Commercial and Procurement Division will manage the procurement process using established commercial best practice. The tender will be advertised, and bids will be received through the Kent Business Portal.

8. Equalities implications

- 8.1 An Equality Impact Assessment (EQIA) has determined no significant impacts for this proposed Decision.

9. Data Protection Impact Assessment

- 9.1 A Data Protection Impact Assessment was completed and reviewed by the Data Protection Officer on the 22 March 2024 with final approval given on the 25

March 2024 by the Information Asset Owner, Sarah Hammond, Corporate Director for Children, Young People and Education.

10. Governance

10.1 Overall budget responsibility sits within the Children, Young People and Education Directorate, with service accountability in the Countywide Childrens Services Division.

11. Conclusions

11.1 A Make vs Buy assessment was undertaken to explore the viability of delivering the service within CYPE. The analysis highlighted that external service delivery is a more cost-effective solution that meets outcomes.

11.2 Many other local authorities have integrated Children's and Adults' Direct Payment Services, so there is an existing precedent for this proposal. However, further work is needed before KCC are able to implement an integrated contract, mechanisms have been built into the new contract to allow for this at such time.

11.3 The recommended procurement approach will be a modified Competitive Procedure with Negotiation via a one stage process.

12. Recommendations

12.1 The Children, Young People and Education Cabinet Committee is asked to CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS to the Cabinet Member for Integrated Children's Services, in consultation with the Cabinet Member for Education and Skills on the proposed decision to:

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13. Contact details

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