

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

**Cabinet Member for
Adult Social Care and Public Health**

DECISION NO:

24/00113

For publication Yes

Key decision: Yes

Title of Decision CARERS' SUPPORT SERVICES

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

- a) **APPROVE** a direct award of the Carers' Short Breaks contract, for a period of twelve months, from 1 April 2025 to 31 March 2026, in accordance with the relevant justifications set out in Regulation 32(2)(c) of the Public Contract Regulations 2015;
- b) **APPROVE** a modification in the form of an extension of the contract for a period of twelve months for Community Navigation Services (Part B), from 1 April 2025 to 31 March 2026, in accordance with the relevant justifications set out in Regulation 72 of the Public Contract Regulations 2015;
- c) **APPROVE** commencement of procurement for a new Carers Support Services contract which combines both Carers Short Breaks and Community Navigation Services (Part B); and
- d) **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: In Kent, there are an estimated 148,341 adults providing unpaid care each week. Kent County Council (KCC) aim to support carers to maintain their own identity and live a full life. The support provided by carers can prevent, reduce and delays the need for care and support from both health and social care.

KCC has statutory responsibilities under The Care Act 2014 which include assessing the needs of any adult (cared for or carer) with an appearance of need for care and support, and arranging services and where appropriate meeting the unmet eligible needs of adults living in Kent. Where it appears to the local authority that a carer may have needs for support (whether currently or in the future), a carer's assessment must always be offered.

The Kent Adult Carers' Strategy 2022 to 2027 describes how KCC will work with all partners to make changes to improve the experiences of unpaid adult carers in Kent. It was developed in partnership with carers, people who draw on care and support, carers organisations, staff, and county councillors.

Kent Adult Carers' Strategy is closely aligned to Kent's strategy for Adult Social Care – Making a Difference Every Day and sets out the vision: 'Making a difference every day by supporting and empowering you to live a fulfilling life whilst being a carer, as long as you are willing and able'.

Building on the Kent Adult Carers' Strategy we want to commission an improved offer for carers. We have been developing proposals for a future model with carers and through engaging with the market.

Leading from what carers told us we are considering introducing a single point of access for Carers'

Support Services which is well promoted and marketed, likely through a lead provider for East Kent and a lead provider for West Kent. We will ensure a greater focus on the benefits of completing a carers' assessment so we can better understand the needs of carers. We will introduce a more local community based approach ensure the service has a wider reach into all parts of the community across Kent.

The Carers' Support Services will offer a range of support such as a carers assessment, provided through delegation afforded by The Care Act, information and advice, support to access to activities, peer support, training, breaks both planned and unplanned to help carers in their caring role.

To prepare for commissioning the new Carers' Support Service a range of pre-procurement activity has taken place. Market engagement has taken place to inform the market of this opportunity and individual meetings have been held with the service providers delivering the current carers support services, to all for the opportunity to ask questions and to get their feedback on future delivery models. Carers' Involvement meetings have taken place to work with carers to better understand how the offer can be improved. Co-production with carers will continue throughout the commissioning process

To support the continuation and conclusion of the procurement of the Carers' Support Services, it is proposed to extend the Community Navigation Services contracts (Part B) and the Carers' Short Breaks contracts, for a maximum of one year, beyond their current terms, in accordance with the relevant justifications set out in Regulation 32 of the Public Contract Regulations 2015. These are due to expire on 31 March 2025, with no further extensions available.

Financial Implications: The future budget for Carers' Support Services is to be agreed between the council and NHS Kent and Medway Integrated Care Board. There are no plans from the council to reduce the budget for Carers' Support Services.

At the present time the value of the contracts for the extension period is expected to remain the same. The current total annual value of the services is £6,847,446 and this would be the maximum value for the twelve month extension period.

NHS Kent and Medway Integrated Care Board contributes £1,252,704 to the Community Navigation (Part B) contracts and £779,681 to the Carers' Short Break Service and has confirmed their commitment to the contract will remain for the extension period.

The proposed contract extensions have no impact on the Medium Term Financial Plan (MTFP) and there are no plans to make savings against these services.

Legal Implications:

Care Act Implications

KCC has statutory responsibilities under The Care Act 2014 include assessing the needs of any adult (cared for or carer) with an appearance for care and support and arranging services and where appropriate meeting the unmet eligible needs of adults living in Kent. Where it appears to the local authority that a carer may have needs for support (whether currently or in the future), a carers' assessment must always be offered. In summary, the services are necessary and will allow KCC to recommission a new carers offer that better meets the needs of carers.

Procurement Regulations Implications

Regulation 72 (3) of PCR2015, requires Contracting authorities which have modified a contract in either of the cases described under Regulation (1)(b) and (c), as is recommended in this paper, should send a notice to that effect for publication, in accordance with Regulation 51. The risk to the council is that an alternate service provider may bring a legal challenge, arguing that the justifications in section 4 of this paper for the modification of the Community Navigation Service do not satisfy Regulation 72. Officers will mitigate the risk of such a challenge by publishing a 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 72 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 modification with confidence once the 30-day time period has expired.

As the Carers' Short Breaks Service has been subject to a previous direct award under Regulation 32(2)(c) of PCR 2015, it is recommended that to mitigate the risk of challenge on the grounds of ineffectiveness (Regulation 99), that the Council publishes a Voluntary Ex-Ante (VEAT) Notice. The Public Contracts Regulations 2015, SI 2015/102, reg 99(3) provides that the above ground for ineffectiveness will not apply if the contracting authority:

- considers the contract award (without prior publication of a contract notice) to be permitted by the Public Contracts Regulations 2015, SI 2015/102, Pt 2
- publishes a voluntary transparency notice indicating its intention to enter into the contract, and
- observes a standstill period of at least ten days beginning with the day after the date the voluntary transparency notice was published.

Commissioners will follow the procurement regulations and Spending the Council's Money in relation to any procurement that is undertaken.

Equalities implications: An Equality Impact Assessment has been completed for the activity of recommissioning the service and the contract extensions, The aim of the new service offer will be to deliver a service which is more identifiable to carers, able to reach a greater number of carers from different communities and with different protected characteristics.

Data Protection Implications: A Data Protection Impact Assessment (DPIA) initial screening has been completed. No personal identifiable information will be collected for the extension process. A full DPIA will be completed for the procurement of the new service

Cabinet Committee recommendations and other consultation: The proposed decision will be discussed at the Adult Social Care Cabinet Committee on 15 January 2025 and the outcome included in the paperwork which the Cabinet Member will be asked to sign.

Any alternatives considered and rejected:

Option A - Reprocurer the contract within a short timeframe

Preparatory work has already been completed. This includes a range of co-production activity with carers, engagement with the market and other stakeholders to determine the requirements of the future offer. We would not want to lose the benefits of this work by rushing through a procurement exercise which does not continue to involve and engage stakeholders at every stage of the process. The council is also not assured there are currently reasonable alternatives in the market which could mobilise in such a short space of time. Additionally, the procurement will be undertaken under the Procurement Act 2023 Regulations, and as the legislation is new, it is important to ensure that the council does not undertake a rushed exercise and inadvertently breaches the regulations.

Option B - End the contracts on 31 March 2025

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
- People accessing the contract may fall into crisis resulting in a high financial pressure on KCC 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.

- Bringing the carers' assessment responsibility back into the council's adult social work teams would incur significant impact on delivery and budget

Option C - Spot purchase services

Officers are of the opinion that it would likely cost the council more money through individual arrangements with providers, lose consistency in service offer and risk oversight and control of the quality of provision. The council would also be in breach of the Procurement Act 2023.

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

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signed

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date