

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TAKEN BY:

Clair Bell
Cabinet Member for
Adult Social Care and Public Health

DECISION NO:

20/00031

For publication

Key decision Affects more than 2 Electoral Divisions and expenditure of more than £1m

Subject: CARE AND SUPPORT IN THE HOME SERVICE

Decision: As Cabinet Member for Adult Social Care, I agree to:

- a) **AWARD** contracts to provide Care and Support in the Home Services to the successful bidders following a procurement exercise and as detailed in exempt Appendix A; and
- b) **DELEGATE** authority to the Corporate Director of 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: There is a mixed economy of Care in the Home Services across Kent for older and vulnerable residents with assessed needs, predominantly contracted to external providers and spot purchasing arrangements. The scope of these services includes:

Phase 1 – Home Care Services and Supporting Independence Services (SIS)

The services in scope deliver very similar tasks in people's homes and there is an opportunity to achieve improved consistency across the market by bringing services together. Additionally, providers delivering services such as SIS are already delivering within an outcomes-focused approach, whilst the Home Care provision remains time and task focussed. Aligning services under one contractual arrangement will enable the Council to take a consistent and equitable approach in shaping the market to focus on the personalisation and outcomes agendas and supporting the Council's strategic outcome that 'older and vulnerable residents are safe and supported with choices to live independently'.

Phase 2 – Supported Living and Care in the Home Community Vacancies

The current parameters for Supported Living sit as an element of the Supporting Independence Service contract; the specifications for that contract date back to 2014 and were renewed in 2017 without change.

Current service contracts were due to expire in May 2019 but were extended to allow the process to consider alternative models based on the banding of properties for the future.

Aligning services under one contractual arrangement will enable the council to promote a consistent approach to the delivery of services and ensure equitable access to services for residents across client groups and localities. It will also support shaping the market to focus on the personalisation and outcomes agendas within the vision for adult social care - 'Your life, Your Wellbeing' strategy. Services must all support the council's strategic outcome that 'Older and vulnerable residents are safe and supported with choices to live independently'

Financial Implications: The planned additions to Care and Support in the Home Service Phase 1 in order to address vacancies in service provision is estimated at £0.5m per annum.

The planned contract arrangements for the Care and Support in the Home Service Phase 2 are anticipated to run for four years, with an option to extend, for further three years with a total value between £60m-£68m per annum, to be determined through contract solution design, currently in

progress.

To recommission the services there is an estimated cost of £6.2m to meet the minimum rates we feel the providers will accept. The Supported Living service is one in which residents may remain for many years and in some cases most of their lives. Achieving a stable home and support is the first building block to achieving a happy and healthy life.

Legal Implications: The main legislative framework for the Care and Support in the Home Service is the Care Act 2014, and the principles of the Mental Capacity Act 2005. These are statutory duties, and the new service will be compliant with both legislations. Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 (TUPE) is likely to apply, and the Council will ensure in the event of a change of employer, that it will undertake necessary arrangements, within its remit, to provide for the protection of employees' rights.

The Monitoring Officer has highlighted the potential for off-contract purchasing outside of the proposed contract to mean that the Council would not be compliant with Public Contract Legislation. To ensure that this is not the case off-contract purchasing will only take place after the procedure outlined below has taken place.

Changes to council processes and procedures necessary to ensure the effectiveness of this process are defined in the Appendix A Award Report.

In the provision of Supported Living a new placement team has been formed managed by commissioning to remove the need for social care staff to source their own placements. With CSiH the Purchasing team already have the placements as a centralised function and processes have recently been reviewed, for both services the following practice is followed and forms part of discussions with providers.

1. Provision is initially sought through contracted providers within the geographical location
2. Should contracted providers in the geographical area be unable to assist then the second step is to offer to contracted providers in neighbouring locations within Kent
3. Should no contracted provider be able to accept the package of care then a temporary placement may be made with a non contracted provider.
4. All use of non contracted provision should be discussed with commissioning to inform market intelligence

The new contracts were seen to be part of the answer to 'Off Contract' placements, however, there are necessary changes needed to operational practice to reduce the use. It is worth noting that the contracts do not purchase latent capacity from the market and there will always be exceptional circumstances whereby placing off contract becomes a necessity. This needs to be managed as a part of the contract and any 'off contract' placements be deemed as temporary pending a contracted placement.

Equality Implications: An EQIA screening was completed, there are no significant changes to the delivery of care, the only changes are to mechanisms of managing the care. No protected group are seen to be adversely affected by any decisions relating to this contract.

Data Protection Impact Assessment Implications: A DPIA has been completed for Phase 1 and Phase 2 of the Care and Support in the Home Service programme in line with the councils Mosaic and systems solutions.

Cabinet Committee recommendations and other consultation: The proposed decision and recommendation report were shared with Members of the Adult Social Care Cabinet Committee prior to the decision being taken.

Market and stakeholder engagement were undertaken to gather views around shaping the new contracts and how services could best be managed in the future. As a number of these Contracts had not been competitively tendered for many years (as shown in the table above), extensive consultation and provider collaboration was required. Engagement included a market event in August 2018; a provider workshop in July 2019; a further engagement event in September 2019; and attendance at Trade Association events, where the Council outlined its intentions for the new services, the project timeline and the procurement process. A Working Group was also set up with representatives from five Supported Living Providers, nominated by peer organisations across the Kent market, to give detailed feedback on all proposals.

Any alternatives considered:

1. Do nothing - allow the current commissioned services to terminate, when contracts come to an end. The main risks of this approach are:
 - The Authority will fail in its duty under the Care Act 2014 in carrying out a care and support function;
 - Older and vulnerable residents with assessed needs will be left unsupported, leading to potential safeguarding concerns;
 - Judicial review of the lawfulness of the Authority's decision
 - Reputational damage to the Local Authority
2. Extend existing services i.e. continue to fund existing contracted and spot purchasing arrangements. The main risks of this approach are:
 - Duplication of services
 - Inconsistency of market – delivery and pricing
 - Missed opportunity for cross-referencing of good practice and learning
 - Missed opportunity to work collaboratively with Health
 - May not be able to cope with future demand on service
 - May be in breach of procurement law
3. Commission separately. The main risks of this approach are:
 - Duplication of services
 - Fragmented provision
 - Missed opportunity to work collaboratively with Health
 - May not be able to cope with future demand on service

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

5 June 2020

Clair Bell