

From: Richard Smith, Corporate Director of Adult Social Care and Health

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

Decision No: 20/00031

Subject: CARE AND SUPPORT IN THE HOME SERVICE

Classification: Restricted Appendix (Exempt from publication by Schedule 12A to the Local Government Act 1972, as it contains commercially sensitive information)

Past Pathway of Paper:

Future Pathway of Paper: Adult Social Care Briefing – 5 June 2020

Electoral Division: All

Summary: To inform the Cabinet Member for Adult Social Care and Public Health on the progress to date to establish new contracts to provide care and support in the home and to request approval to award new contracts from June 2020.

Recommendation(s): The Cabinet Member for Adult Social Care and Public Health is asked 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.

1. Introduction

- 1.1 Strategic Commissioning were commissioned to manage the procurement for several services delivering care and support to residents within their homes. The new Contracts will replace several existing services and bring the delivery of these multiple services together under one Contract to form an 'umbrella' of interventions. These interventions aim, wherever possible to support a person to achieve the outcomes that are important to them, in line with the Care Act 2014 and the vision for adult social care as set out in the 'Your Life, Your Wellbeing' strategy.
- 1.2 Supported Living, Care and Support in the Home (in limited cluster areas due to provider vacancies), Discharge Support Services and the Community Lunchtime Service constitute Phase 2 of the Care and Support in the Home

Service Contract. Discharge Support Services and the Community Lunchtime Services will now be considered separate to this award report.

- 1.3 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. There are large budget pressures on this service; contracted providers are also informing us that the current pay rates are unsustainable with many providers telling us that they are in difficulties with cash flow due to non-payment of invoices.
- 1.4 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.
- 1.5 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'.
- 1.6 Bringing services together will also develop a clearer pathway, with less transfers between services for clients supporting improved continuity of care. Providers will also have greater flexibility and control to manage fluctuations in demand to meet assessed needs.
- 1.7 In Kent, the overarching Care and Support in the Home Services will form part of a continuum of care and support, ranging from support within communities and care for people in their own homes, through to specific supported accommodation with appropriate levels of care for assessed need, to high-level residential and nursing care home accommodation.
- 1.8 There were two parts of this recent tender exercise consisting of 6 'lots'
 - Lot 1: Learning Disability, Physical Disability and Mental Health Residential Care Home Services (Specialist Needs)
 - Lot 2: Learning Disability, Physical Disability and Mental Health Residential Care Home Services (Mid and High Level Needs)
 - Lot 3: Supported Living Services
 - Lot 4: Discharge Support Services
 - Lot 5: Care and Support in the Home Services – community vacancies
 - Lot 6 Community Lunchtime Service

1.9 This report is focused on two of the five lots which were presented to the market in October 2019:

- Lot 3 Supported Living
- Lot 5 Care and Support in the Home Community vacancies.

1.10 Lots 1 and 2 are being presented under their own separate item and lots 4 and 6 will be discussed at a later date due to further investigation needed.

Supported Living

1.11 Supported Living is defined as care and support services that are delivered in a property-based model. In most cases the accommodation will be occupied by more than one tenant, with a combination of individual, one to one support and shared support, where an opportunity exists for a care and support worker to potentially support several tenants with either a defined activity or mitigating risk through their presence as a watching brief. This shared support can be delivered either within a single property or within a mews / courtyard type setting with onsite staff accommodation.

Care and Support in the Home: Community

1.12 Care and Support in the Home Service Phase One brought together the community services: Homecare (or Domiciliary Care as it is sometimes referred to) and Community Based SIS.

Homecare

1.13 The timely care and support services provided by care or support workers to people in their own home, so they can be supported to live independently and can manage activities of daily living.

1.14 'Homecare Services' are delivered by private companies on the Council's behalf.

1.15 Good homecare services should:

- Support people to take greater control of their lives by providing them with the skills to maintain a good quality of life
- Help people to develop and retain skills to enable them to maintain independent, fulfilling lives for as long as possible
- Put the person (and their primary carer or family) at the centre of decisions about how they are supported and cared for
- Be provided in such a way that the person feels involved, secure and confident in the care and support delivered to them

Supporting Independence Service (SIS)

1.16 The Supporting Independence Service is a countywide, outcome-focused Service based on independence and social inclusion principles for people with health and social care needs in Kent, including young people and adults.

1.17 The focus of the Service relates more to the person as an individual, enabling them to make their own informed choices and live as independently as they are able. The Service puts each person at the centre of their care and support process by identifying their needs, preferences, goals and aspirations.

1.18 This may include but is not limited to:

- Maintaining and developing independence and control of their life
- Feeling more confident and needing less support
- Being supported to do as much as possible for themselves and making decisions about their life
- Feeling supported and knowing how to stay safe and free from abuse
- Feeling stronger and healthier

1.19 People may then make choices about how and when they are supported to live their lives. This approach can give eligible people more freedom, choice and control over the type of care and support that they receive.

1.20 Driving the selection of new Providers is their ability to meet a suitable and appropriate quality threshold and demonstrate their capability for delivering an outcomes-focused service. New providers must be capable of delivering this model and must be able to meet the needs of clients whilst maintaining a financially sustainable business model throughout the lifetime of the contract, managing growth and scale.

1.21 Additionally there are a number of benefits to each the Client, Provider and the council in entering new agreements under these contracts.

1.22 Owing to the complexity of the various Service Specifications and in line with Commissioning for Success guidelines, it was agreed that the Competitive Procedure with Negotiation would be used.

1.23 The full award report is added as Appendix 'A' to this report as a 'Restricted Appendix' that is exempt from publication by Schedule 12A to the Local Government Act 1972, as it contains commercially confidential information.

2. Strategic Statement and Policy Framework

2.1 The Services in scope support the Council's strategic objective 'to help people to improve or maintain their wellbeing and to live as independently as possible' as well as assisting adults with assessed needs, to remain living independently in their own homes and maintain their tenancies and for residential services,

'Older and vulnerable residents are safe and supported with choices to live independently'. Key supporting outcomes that this commissioning and re-procurement activity will support include the following:

- Families and carers of vulnerable and older people have access to the advice, information and support they need
- Older and vulnerable residents feel socially included
- Residents have greater choice and control over the health and social care they receive

2.2 Commissioning for adults in Kent has evolved in line with the national drive for local government to provide more effective and high-quality commissioning for public services which achieve outcomes and demonstrate value for money. The commissioning cycle must be flexible to the needs of residents and provide continued assurance of the effectiveness of services. Therefore, this sets out a continuous improvement approach and high-level forward plan that allows the Council to remain flexible and agile to meet needs as they change.

2.3 The council is presently going through step changes in the way it wishes to commission, deliver and manage Services, as well as the relationships it holds with Contracted Providers.

3. The Report

3.1 This report summarises the current landscape, commissioning intentions, procurement process and evaluation, laying out the proposed future landscape and the steps needed to get there. The full award report with recommendations for award is in Appendix A.

3.2 Several of the existing contracts which form a part of the recent tender exercise have been established for a number of years with little change (see the Table below). The New Contracts are anticipated to start in June 2020.

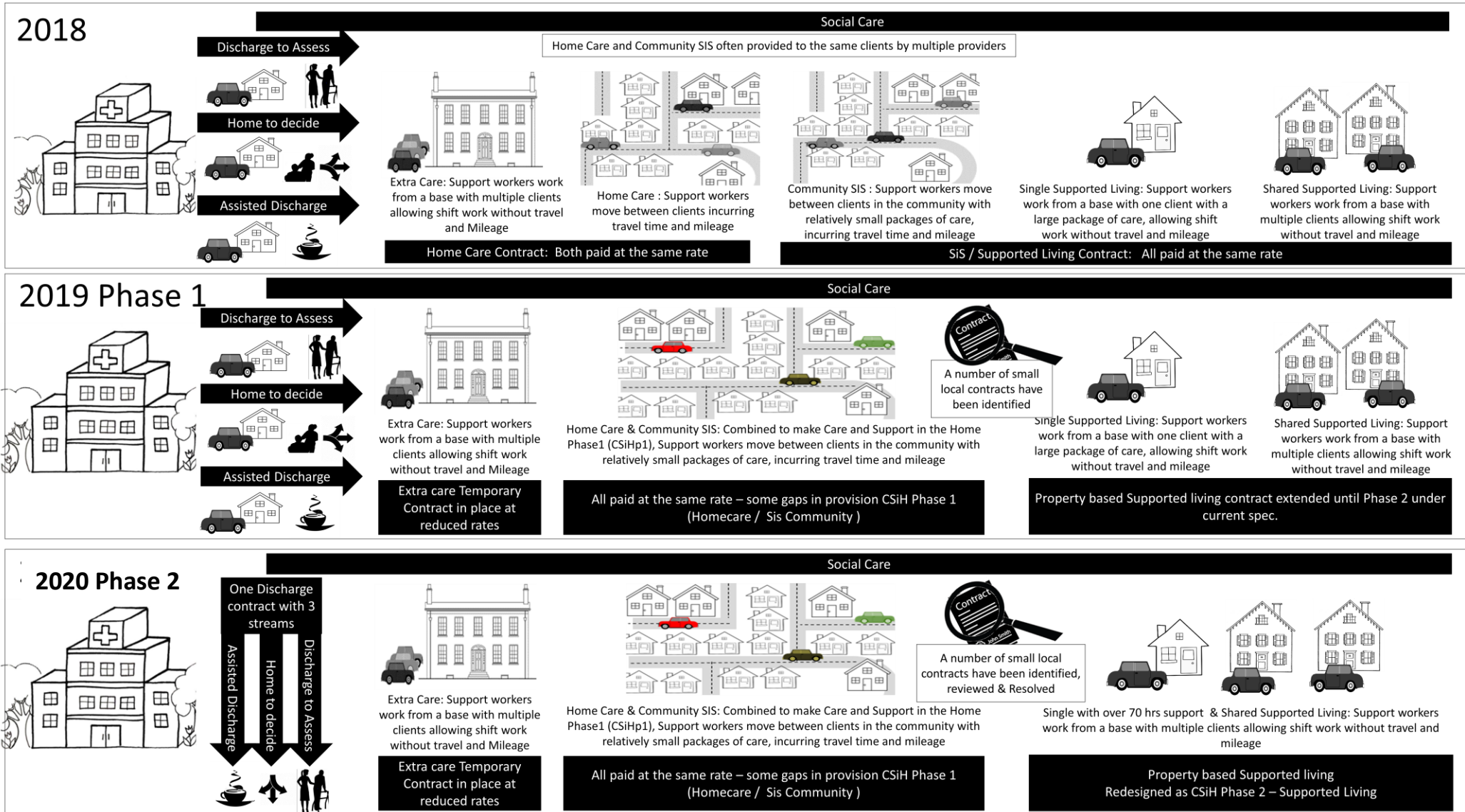
Original Contract Name	Start Date (under current specification)	Extended date	Contract End	New Contract
LD, PD, MH Residential Care Home Services	2002/2004			Lot 1&2 LD, PD, MH Residential Care Home Services
Supported living	2012	2017 & 2019	2020	Lot 3 CSiH P2 Supported Living
Discharge to Assess	2018	2019	2020	Lot 4 Discharge Services – Subject to further investigation
Home to Decide	2019		2020	
Assisted Discharge	2019		2020	
Homecare / SIS (CSiH)	2014(CSiH 2019)	2017		Lot 5 CSiH P1 Community
Meals on Wheels	2016	2019	2020	Lot 6 Community Lunchtime Service - Subject to further investigation

3.3 Supported Living, Care & Support in the Home (in limited cluster areas due to provider vacancies), Discharge Support Services and the Community

Lunchtime Service constitute Phase 2 of the Care and Support in the Home Service Contract. Discharge Support Services and the Community Lunchtime Services will now be considered separate to this award report.

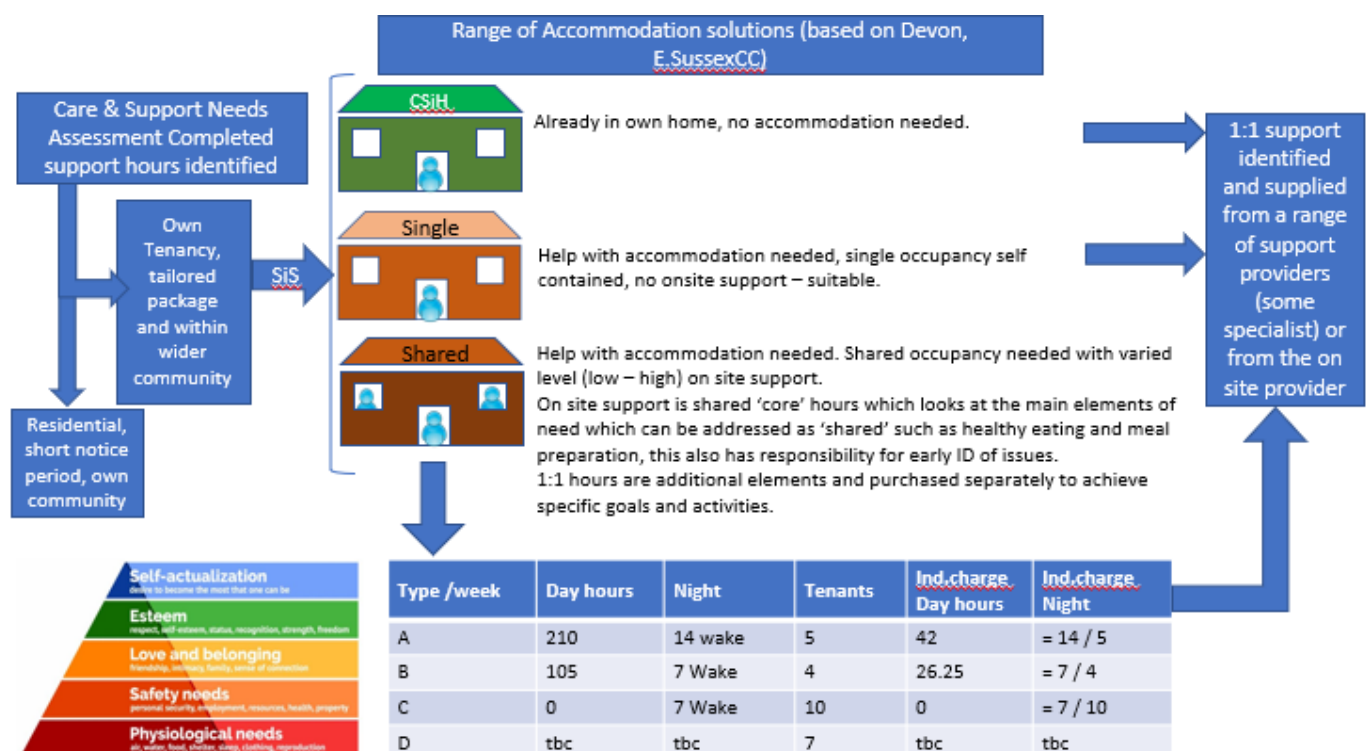
- 3.4 In-depth detailed work carried out by Strategic Commissioning, Commissioners and Finance Teams identified what is currently being commissioned from providers, what is being delivered and at what cost. The work also considered the council's approach to Sleep-in Payments in light of the market's varied interpretation of the original HM Revenue and Customs (HMRC) guidance and the pending further Court Appeal granted by the Supreme Court, with the continued uncertainty around the Sleep-in Payments and the potential pay liabilities. It was proposed that the council changes Sleep-in Payments from the current customary fixed payment to an hourly amount, set at the National Living Wage (NLW) rate.
- 3.5 In line with national strategy the aim of adult social care is to reduce the number of placements to care homes and to work with the market to develop and make available a range of other alternative options, including an increase in supported living options.
- 3.6 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.
- 3.7 All organisations that expressed an interest in this opportunity were invited to submit an initial Invitation to Tender (ITT) response, and then (subject to passing the Selection Criteria) to participate at the negotiation stage, and then re-submit a final tender response. At each stage of the process, stringent evaluation criteria were set, and tenderers were excluded if these criteria were not met, removing them from further participation at each stage. Full details of all evaluation criteria can be found in Appendix A.
- 3.8 It is important to note that the contract is one part of a process and has many interdependencies, should the surrounding process and activities not change, then the contracts are unlikely to reach their potential benefits for clients, providers or the council.

Current Landscape

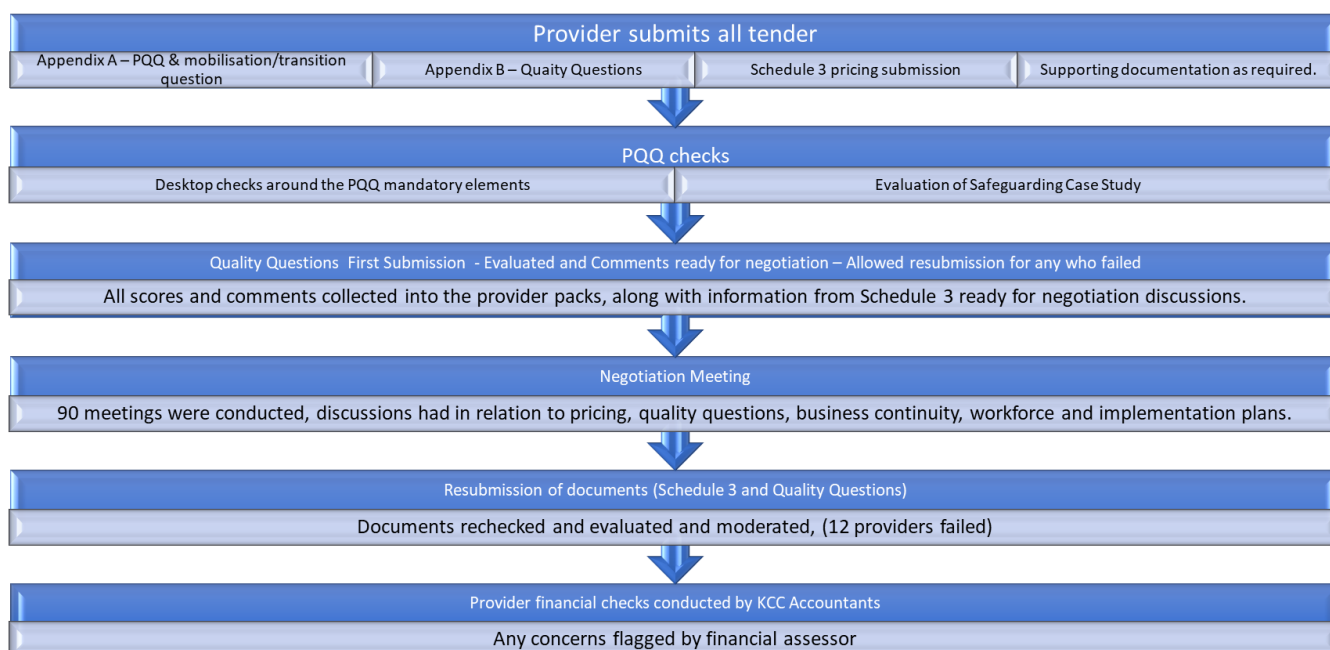


Commissioning intentions

- 3.9 Recommissioning the Supported Living Service provides the Council with the opportunity to redesign the delivery model, maximising the potential utilisation of shared support, improve compatibility through the introduction of accommodation and client need banding categories and promote greater continuity and consistency in sourcing of support packages through the increased use of centralised Purchasing Teams.
- 3.10 The new model is designed to promote individual well-being and promote independence wherever possible, enabling people to do as much as they can for themselves, ensuring that people can live as independently as possible in their own home, including dedicated single or shared supported living schemes or rented accommodation.
- 3.11 Where possible the model focuses on the utilisation of Shared hours within an accommodation setting and working towards a situation where we have banded provision as shown below:



3.12 The illustration below shows the Procurement process taken



3.13 Table 1 shows the Procurement Timetable

Table:1 Procurement Timetable

Activity	Date
Publish advert and Invitation to Tender (ITT)	1 October 2019
Deadline to submit requests for clarification via the Kent Business Portal	24 October 2019
Closing date and time for Tender Submissions	Noon on Friday 1 November 2019
Tender Evaluation Period	1 November – 18 November 2019
Negotiation Period	18 November – 1 January 2020
Tender resubmission	By 5 January 2020
Moderation	14 – 18 January 2020
Award Clarification Meetings	11 May 2020
Contract Award* and Standstill	5-14 June 2020.
Contract Commencement Date	15 June 2020

3.14 Following closure of this opportunity:

- 108 providers submitted a response; many providers submitted for multiple lots.
- 18 providers 'opted out' from the process ahead of the deadline.
- 154 providers who had initially expressed an interest in the tender process at the Expression of Interest stage prior to the ITT did not go on to submit a response.
- Of the 108 providers who submitted a response, 93 of these passed the initial selection criteria evaluation.
- 63 providers passed the Quality Question criteria in the first instance. Providers who did not meet these requirements were permitted to resubmit this element prior to negotiations.

* Note: the responses above are responses for all lots advertised in the opportunity

3.15 Full details of providers who took part in the Procurement process can be found in Appendix A. This is a Restricted Appendix that is exempt from publication by Schedule 12A to the Local Government Act 1972, as it contains commercially confidential information.

4. Financial Implications

4.1 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.

4.2 The planned contract arrangements for the Care and Support in the Home Service Phase 2 is 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.

4.3 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.

5. Legal Implications

5.1 The main legislative framework for the Care 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.

5.2 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 following procedure (outlined in 5.4) has taken place.

5.3 The actions taken to mitigate off contract use are as follows in terms of placements however there are changes to council processes and procedures necessary which are defined in the Appendix A Award Report.

5.4 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

5.5 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.

6. Equality Implications

6.1 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.

7. Data Protection Impact Assessment Implications

7.1 A DPIA has been completed for phase 1 and phase 2 of the Care and Support in the Home programme in line with the councils Mosaic and systems solutions.

8. Conclusion

8.1 In regards the Phase One vacancies a tender opportunity was undertaken to address the gaps in the services provision. It is recommended that the contract should be awarded to the providers indicated within the award report who have met the quality standards and criteria for award as defined by the procurement process to enable a strengthening of the provision in the relevant locations.

8.2 In regard to phase two supported living, providers are already telling the Council that the current situation is untenable. We have a number of providers already wishing to remove from the Kent market and should we fail to implement changes needed to better support the providers we will be in a position whereby requirements vastly outstrip provision which would result in even greater use of 'off contract' providers. The recommendation is to award contracts to all providers meeting the quality standards and criteria specified as part of the procurement function.

8.3 The new contract alone will not fix the issues within these services however, combined with the practice recommendations included in the report it will allow a step change process to strengthen the service and the market.

9. Recommendation(s)

9.1 Recommendation(s): The Cabinet Member for Adult Social Care and Public Health is asked 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.

10. Background Documents

None

11. Report Author

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