

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 – 22 November 2023**

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

Decision Number: 23/00102

Key decision: **Yes**

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 of the proposal to extend the Direct Payment Support Service contract for a period of 12 months from 1 April 2024 to 31 March 2025.

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 on the proposed decision to;

A) Authorise additional expenditure and to extend the Direct Payment Support Service contract for 12 months from 1 April 2024 to 31 March 2025

1. Introduction

1.1 As part of the support planning process for Disabled Children and Young People, Direct Payments (DPs) are offered to individuals to provide a greater choice and control over their care and support arrangements. They are monetary payments that can be made to individuals to meet some or all their eligible support needs. The legislative context is set out in the Care Act 2014, section 117(2c) of the Mental Health Act 1983, the Care and Support (DP) Regulations 2014 and the Children and Families Act 2014.

- 1.2 Children, Young People and Education Directorate commissions the Direct Payment Support Service with 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 with special educational needs
 - Young people aged 16-25 with special educational needs
 - Young disabled people aged 16-25
- 1.3 The Key Decision to commission the Direct Payment Support Service was taken on the 30 October 2018. The Decision ([Decision - 18/00055 - Direct Payment Support Service \(kent.gov.uk\)](#)) provided for a three-year fixed term with two twelve-month extension periods within a maximum budget of £1.7 million over the five-year term.
- 1.4 On the 16 December 2022 the Cabinet Member for Integrated Childrens Services took a Decision ([Decision - 22/00104 - Extension of the Direct Payment Support Service Contract \(kent.gov.uk\)](#)) to authorise additional expenditure to enact the final allowable extension to the contract and increase capacity to meet growing demand.

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 performed well against Key Performance Indicators. Feedback from service recipients and other key stakeholders indicates a good-quality service that meets expectations.
- 2.2 With the current contract ending on 31 March 2024, a cross-directorate steering group was established in January 2023 with staff across Children Young People and Education (CYPE), Commissioning, Finance and Health to inform the scope of the future service arrangements. The steering group undertook feedback from service recipients across multiple sources, which will be instrumental in informing the future service specification.
- 2.3 Consultation with Adult Social Care and Health (ASCH) has also been ongoing to ensure we consider their position and plans for the Adult DP service. 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 suggested. The development of a 'whole council approach' to delivering DP services was supported in principle due to potential advantages such as cost efficiencies and a smooth transition between CYPE and ASCH.
- 2.4 Some of the service elements being scoped by ASCH align with the Direct Payment Support Services for Children and Young People. A potential joint commissioning exercise has emerged, which could offer KCC better value for money and create greater cohesion across services.
- 2.5 There is currently insufficient information available about ASCH's future trajectory and therefore CYPE cannot make an informed recommendation about

whether this option is viable. More time is required to sufficiently scope and engage the market to ascertain if aiming for an integrated service in Kent is feasible.

- 2.6 Many other local authorities have integrated Children's and Adults' Direct Payment Services, so there is an existing precedent for this proposal. However, further clarity is needed before a decision can be made about whether this is the preferred option for Kent.
- 2.7 If it is determined that a joint commissioning exercise with ASCH is not advantageous, CYPE will recommission the service independently in time for when the contract ends in March 2025.

3. Options

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

Option 1: Do nothing. The Direct Payment Support Service contract will cease on the 31 March 2024 and CYPE will have to make alternative plans for the administration and support for Direct Payments. Currently there are no arrangements in CYPE to undertake this function and it would not be possible to develop in-house capacity within the timeframe. It would be likely that TUPE would also apply. This option is discounted for now and the development of an in-house offer will be considered in the recommissioning options for 2025.

Option 2: CYPE commission the Direct Payment Support Service independently of ASCH. There may be a missed opportunity for an integrated service, and lost economies of scale due to separate procurement activity. This option is discounted.

Option 3: Extend the current CYPE Direct Payment Support Service contract for one year, from 1 April 2024 to 31 March 2025. This option maintains the current CYPE service, which has demonstrated successful outcomes, and provides sufficient time for ongoing engagement with ASCH to determine the feasibility of an integrated service. This is the preferred option.

- 3.2 The preferred option is Option 3, to extend the current CYPE Direct Payment Support Service contract for one year, from 1 April 2024 to 31 March 2025. This option will maintain the current CYPE Direct Payment Support Service arrangement and provide sufficient time for ASCH and CYPE to determine the feasibility of an integrated, jointly commissioned service.

4. Financial Implications

- 4.1 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, for Direct Payments where an education need is identified.

- 4.2 The cost of delivering the service over the five-year period, 1 April 2018 – 31 March 2024 is £2,015,087.
- 4.3 As part of the negotiation with the provider CYPE Commissioning will review the service specification and contracted caseload thresholds to identify efficiencies, and the final amount will be agreed with Service Directors and Finance. The financial commitment for the extension can be found on exempt Appendix 1.
- 4.4 The contract requires the Provider to notify KCC of any unspent Direct Payments for reclaim. The following shows the values as identified by the 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 - YTD of £1,140,426 (Social Care = £901.7K / Education = £238.7K)

Projections for the 2023/2024 financial year are for the We are Beams Direct Payment Service to identify circa £1.75m in funds for KCC to recover from Direct Payment Accounts.

5. Legal implications

- 5.1 Direct Payments for parents or carers of disabled children are a statutory duty under the 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).
- 5.2 Legal advice has concluded that the Council has reasonable grounds to rely upon Regulation 72(1)(b) PCR 2015 to justify the extension beyond the optional extension periods already expressly provided in the contracts. This is on the basis that a change of providers cannot be made for economic or technical reasons and would cause significant inconvenience for the Council.

6. Equalities implications

- 6.1 An Equality Impact Assessment (EqIA) as determined no significant impacts for this proposed Decision.

7. Governance

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

8. Conclusions

- 8.1 Some of the service elements being scoped by ASCH align with the Direct Payment Support Services for Children and Young People. A potential joint commissioning exercise has emerged, which could offer KCC better value for money and create greater cohesion across services.

- 8.2 Many other local authorities have integrated Children's and Adults' Direct Payment Services, so there is an existing precedent for this proposal. However, further clarity is needed before a decision can be made about whether this is the preferred option for Kent.
- 8.3 Legal advice has concluded that the Council has reasonable grounds to extend the contract under Regulation 72(1)(b) of the Public Contract Regulations 2015
- 8.4 Extending the contract now will give the provider reassurances of funding for the next 12 months and ensure that the Council meets its statutory responsibilities.

8. Recommendation(s):

- 8.1 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 on the proposed decision to;

A) Authorise additional expenditure and extend the Direct Payment Support Service contract for 12 months from 1 April 2024 to 31 March 2025

9. Background Documents

9.1 [Decision - 18/00055 - Direct Payment Support Service \(kent.gov.uk\)](#)

9.2 [Decision - 22/00104 - Extension of the Direct Payment Support Service Contract \(kent.gov.uk\)](#).

10. Contact details

Report Author:

Christy Holden, Head of Childrens
Commissioning

03000 415356

Christy.Holden@kent.gov.uk

Steve Lusk, Senior Commissioner

03000 410258

Steve.Lusk@kent.gov.uk

Relevant Director:

Kevin Kasaven, Director of Countywide
Childrens Services
Services

03000 416334

Kevin.Kasaven@kent.gov.uk