

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Cabinet Member for
Adult Social Care and Public Health

DECISION NO:

24/00004

For publication: Yes

Key decision: YES

Title of Decision: LEARNING DISABILITY, PHYSICAL DISABILITY AND MENTAL HEALTH RESIDENTIAL CARE HOME SERVICES – CONTRACT EXTENSION

Decision: As Cabinet Member for Adult Social Care and Public Health, I propose to:
a) **EXTEND** the Learning Disability, Physical Disability and Mental Health Residential Care Home Services contract for a maximum of up to two years from 15 June 2024 to 14 June 2026; and
b) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to take other 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: The Care Act 2014 gave local authorities in England, the NHS and the Care Quality Commission (CQC) clear legal responsibilities for managing different elements of the adult social care market that include considering need, provider sustainability, value for money and integration.

Framing Kent's Future and Securing Kent's Future and the Adult Social Care Making a Difference Everyday Strategy, identify New Models of Care and Support as key priorities by recognising the importance of health and social care integration, building effective strategic partnerships with our providers through coproduction whilst being innovative in the way we look to redesign services to improve quality and importantly respond to budget constraints.

To help achieve this, the council has procured external expertise to undertake three distinct pieces of work that will help with the redesign of a new service. This will help inform the commissioning intentions for adult social care services and provide commissioners with the required information to design new specifications and a robust commissioning and procurement process.

The commissioning exercise will include extensive engagement with people who use care and support services to develop a new specification which ensures high quality and cost-effective services in the future.

This is a demand driven service and due to increases in complexity, increased demand and fees in excess of that funded for inflation, spend has grown year on year. It is recognised that during the contract extension period mitigations will be put in place to help halt the increased spend to the service through the development of a robust savings action plan. This will require a collaborative approach across Kent County Council (KCC) and NHS Kent and Medway Integrated Care Board (ICB) colleagues and proactively engaging with providers to determine fair costs for both legacy and new placements.

The council will need to consider looking to develop alternative care and support offers which support people to remain in their own home for longer. These include an enhanced technology offer, integrated reablement service, homecare offer, increasing direct payments and support that can be

purchased such as personal assistants and niche services delivered by the voluntary sector and micro providers.

Commissioners will develop new models, supported by the cost of care exercise completed by the external consultants, which will ensure best value for future services. The extensions will allow this activity to be completed.

The current Learning Disability, Physical Disability and Mental Health Residential Care Home Services contract ends on 14 June 2024 and there are two, 2-year extensions built into the contract, which could take the contract through to 14 June 2028. This decision seeks to utilise the first of these two-year extensions from 15 June 2024 to 14 June 2026.

An extension to the current contract will allow the external consultants to complete the assessment and for the new service to be procured. However, it is anticipated that the exercise carried out by external experts will not be finalised until March 2024. This will enable a full procurement process to commence once the extension to the contract has been implemented.

The proposed extension will be put in place for a maximum of up to two years. However, a robust reprocurement exercise is to be completed as quickly as possible and break clauses will be written into the contract extension to allow the council to terminate the contract when appropriate and to fit in with the mobilisation of a new contract.

There are currently 881 people placed in a residential care home setting through this contract, and a further 523 people placed in residential care homes outside of the contract. Not all placements and/or homes will be within Kent.

The contract is by way of an open Dynamic Purchasing System (DPS) that allows the council to add new providers during the lifetime of the contract having passed the relevant selection criteria. The DPS provides a high level of flexibility that allows for market development and new purchasing opportunities if, and when required.

The services/contract should be considered in the context of the external and internal pressures which have significantly changed from when the contract was initiated in 2019.

Pressures include:

- The demand for care and support for people with a greater level of complexity of need.
- Inflationary pressures and financial sustainability issues.
- Increased placement costs seen across Kent and nationally.
- Workforce pressures and the recruitment and retention of high-quality staff
- Quality issues resulting in poor Care CQC rating and contract suspensions.

The proposed decision supports objective 2 of Securing Kent's Future to deliver savings from identified opportunity areas to set a sustainable 2024/25 budget and MTFP and priority 4 of Framing Kent's Future – New Models of Care and Support.

Financial Implications: The initial contract cost is set out below along with the current cost. Various market pressures and increase in demand and complexity of care has resulted in an increased spend on the service. Robust actions are being put in place to limit this spend.

Contract	Initial contract cost advertised (per annum)	2022/23 spend
Residential Care Home Services (Learning Disability, Physical Disability & Mental Health)	£108,000,000	£138,000,000

Dedicated commissioning and finance resources will be required to ensure a collaborative approach to determine a robust fee model and pricing guide and the identification of any financial risk.

Legal implications: An extension is necessary to enable the council to undertake a detailed Cost of Care review, which is likely to be completed by 28 February 2024. As such, the council will not be in a position to undertake a reprocurement, based on the outcome of the review, in time for a new service to be in place in 2024. Therefore, a change is not proposed at this time for economic or technical reasons. Any procurement of the service, prior to the completion of the Cost of Care review, will cause significant inconvenience and substantial duplication of cost. It is also unlikely that a procurement will attract market interest, as providers may be reluctant to bid, prior to the completion of the Cost of Care review.

An extension is available to be utilised and the extension was included in the Contract/PIN Notice advertising the original procurement of this service and therefore the extension is permissible and compliant under PCR 2015 regulations.

Equalities implications: To ensure KCC's statutory obligations under the Equalities Act 2010 are met, a full Equality Impact Assessment (EqIA) has been undertaken for recommissioning purposes. This has also been considered for the purposes of the contract extension and no major issues were identified. This will be refreshed to encompass any new negative or positive impacts identified due to the new service model.

Data Protection Implications: A Data Protection Impact Assessment has been completed and no anticipated new data protection implications have been identified.

Cabinet Committee recommendations and other consultation: The proposed decision will be discussed at the Adult Social Care Cabinet Committee on 18 January 2024 and the outcome included in the paperwork which the Cabinet Member will be asked to sign.

Any alternatives considered and rejected: The council can choose not to extend the current contract. However there are significant risks, as set out below, to choosing this option and no benefits have been identified.

Legal and Policy: The council commissions services from the independent sector to meet the needs of individuals deemed to be eligible in accordance with and following a Care Act assessment. If the contract ends the council will be pressured to fully meet its statutory obligation under the Care Act with regards to providing a high quality, safe service that is at an affordable price.

Financial: A lack of robust fee setting mechanisms and contractual leverage may result in a significant increase in placement costs which will be challenging to control. Savings targets set out by the council and to be met through greater partnership working and negotiation will be difficult to achieve through spot purchasing agreements and providers will be within their right to give notice on individual placements that may be hard to source at an affordable price.

Reputational: A shift to partnership working with providers will be challenged as the expectation from providers is that the contractual arrangements with the authority will be maintained due to the mutual benefits to both parties. People using this service expect a robust oversight of the service and the perception will be that this is not the case if the service is not part of a KCC contract.

Resource Implications: If the contract ends there will be a requirement for the review, renegotiation, and repurchasing of all individual placements with new contract and terms and conditions established. This will also require significant system and process updates.

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