

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

To: Dan Watkins, Cabinet Member for Adult Social Care and Public Health

Subject: **LEARNING DISABILITY, PHYSICAL DISABILITY AND MENTAL HEALTH RESIDENTIAL CARE HOME SERVICES – CONTRACT EXTENSION**

Decision Number 24/00004

Classification: Unrestricted

Past Pathway of report: Adult Social Care Cabinet Committee – 18 January 2024

Future Pathway of report: Cabinet Member decision

Electoral Division: All

Summary Framing Kent’s Future and Securing Kent’s Future and the Adult Social Care Making a Difference Everyday Strategy Kent identify New Models of Care and Support as a key priority 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 carry out a detailed assessment of the cost of care while exploring and determining the best contracting models which support an integrated approach to future health and social care models. The outcome of this assessment will not be completed until March 2024.

The current Residential Care Home Services (Learning Disability, Physical Disability and Mental Health) contract is due to end on 14 June 2024 and there are two, two-year extensions built into the contract. Given the scale of the current contract and the anticipated impact of new models of care, it is recommended that the contract is extended, this will secure the safe continuation of provision whilst the assessment and review are undertaken, the findings are fully considered, and a new service put in place.

Recommendation: The Cabinet Member for Adult Social Care and Public Health is asked to:

- a) **EXTEND** the Residential Care Home Services (Learning Disability, Physical Disability and Mental Health) 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.

1 Introduction

- 1.1 The Learning Disability, Physical Disability and Mental Health Residential Care Home Services contract commenced in 2019, for an initial period of four years, with options to extend.
- 1.2 The current Learning Disability, Physical Disability and Mental Health Residential Care Home Services contract is due to end on 14 June 2024 and there are two, two-year extensions built into the contract. It is proposed to use the first of these two-year extensions to extend the current contract from 15 June 2024 to 14 June 2026.
- 1.3 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.
- 1.4 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.
- 1.5 The service/contract above should be considered in the context of the external and internal pressures which have significantly changed from when the contract was initiated in 2019. These 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 CQC rating and contract suspensions.

2 Background

- 2.1 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.
- 2.2 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.

- 2.3 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:
1. A comprehensive assessment, along the lines of the 'cost of care' exercise to examine the pattern of current and future demands. This will lead to determination of the appropriate fee setting mechanism and contractual models for supporting needs and aspirations, which will be more in line with peoples' preferences but at the right price.
 2. To determine how a new service will support the delivery of the ambitions of the Integrated Care Board (ICB) to embed collaboration across the health and social care system and to support sustainability and efficiency within the sector by considering factors such as pooled budgets and contracting models.
 3. To consider a joined up contract model that aims to reduce the residential care market while considering associated pressures and demand for other adult social care service provisions such as the homecare market.
- 2.4 Outcomes to be achieved:
- The Older Person: To ensure people of Kent are in the right place with the right care and receive seamless high-quality, cost-effective care and positive outcomes.
 - Quality of Care: Sustainable range of regulated care services that provides consistent high quality, safe and supportive care that meets people's needs in a regulated care service that is rated by CQC as outstanding or good.
 - Value for Money: Ensures competition within the market that drives up quality alongside achieving cost efficiencies and ensuring value for money.
- 2.5 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.
- 2.6 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.
- 2.7 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 KCC and NHS Kent and Medway ICB colleagues and proactively engaging with providers to determine fair costs for both legacy and new placements.
- 2.8 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.

- 2.9 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 extension will allow this activity to be completed.
- 2.10 An extension to the current contract is required to 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.
- 2.11 The proposed extension period 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.
- 2.12 Subject to the outcome of the work currently being undertaken by consultants, we expect to commence the procurement process in April 2024 with a view to implement from early in 2025.
- 2.13 A programme plan detailing the re-design and procurement timeline will be developed and shared with members of the committee once the consultancy project has been completed.

3. The consequences of not extending the current contract

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 Reputational: A shift to partnership working with providers will be challenged as the expectation from providers is that the contractual arrangements with the Council 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.

- 3.5 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.

4. Financial Implications

- 4.1 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)	2022/2023 spend
Learning Disability, Physical Disability and Mental Health Residential Care Home Services	£108,000,000	£138,000,000

- 4.2 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.

5. Legal implications

- 5.1 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.
- 5.2 An extension is available to be utilised in the contract. The extension was included in the Contract/PIN Notice advertising the original procurement of the service and the extension is permissible and compliant under PCR 2015 regulations.

6. Equalities implications

- 6.1 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 (Attached as Appendix 1). 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.

7. Data Protection Implications

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

8. Conclusions

- 8.1 The Learning Disability, Physical Disability and Mental Health Residential Care Home Services contract commenced in 2019, for an initial period of four years, with options to extend. The current Learning Disability, Physical Disability and Mental Health Residential Care Home Services contract is due to end on 14 June 2024 and there are two, two-year extensions built into the contract.
- 8.2 External expertise has been procured to support the redesign of services for people in Kent. Given the scale of the current contract and the anticipated impact of new models of care, it is recommended that the current Learning Disability, Physical Disability and Mental Health Residential Care Home Services contract is extended for a maximum of up to two years from 15 June 2024 to 14 June 2026. This will secure the safe continuation of provision whilst the proposed findings from the consultants is fully considered and new services put in place.

9. Recommendations

9.1 Recommendations: The Cabinet Member for Adult Social Care and Public Health is asked to:

- a) **EXTEND** the Residential Care Home Services (Learning Disability, Physical Disability and Mental Health) 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.

10. Background Documents

None

11. Report Author

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