

From: Graham Gibbens, Cabinet Member for Adult Social Care and Public Health
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To: Adult Social Care Cabinet Committee – 12 March 2019

Subject: **CARE AND SUPPORT IN THE HOME SERVICES (PHASE 1)**

Classification: Unrestricted

Past Pathway of Paper: Adult Social Care and Health Directorate Management Team – 13 February 2019

Future Pathway of Paper: None

Electoral Division: All

Summary: At its meeting on 4 July 2018 the Adult Social Care Cabinet Committee endorsed the procurement of a new integrated Care and Support in the Home Service for adults and children with assessed needs, to commence from April 2019. Owing to the complexity of the Service Specification and in line with Commissioning for Success guidelines, it was agreed that the Competitive Procedure with Negotiation would be used.

This paper summarises the rationale for undertaking this activity and outlines both the process and outcome of the procurement exercise undertaken in order to implement the decision made.

Recommendation(s): The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **COMMENT** on the content of the report

1. Introduction

1.1 The council's Strategic Commissioning Division was commissioned to manage the procurement for Care and Support in the Home Services delivered within people's homes and in the community, incorporating the service provisions previously known as Home Care and Supporting Independence Services (Community Based) (SIS). The existing contracts for these services are due to expire in June 2019, with the Supported Living element of the SIS Contract being extended until April 2020. It is vital new contracts are in place by June 2019, as the contract has previously been extended under a Single Source Justification and cannot be extended further.

1.2 On 4 July 2018, the Adult Social Care Cabinet Committee endorsed the proposal to commission a new Care and Support in the Home Contract. The

new contract replaces a number of existing services and brings the delivery of these multiple services together under one contract to form an 'umbrella' of interventions. The proposal outlined how this new service would improve outcomes for people, reduce duplication and create clearer pathways.

- 1.3 A Prior Information Notice (PIN) was published on 24 July 2018, alerting the market to the Market Engagement Event and subsequent procurement process. The Market Engagement event was held at County Hall on 30 July 2018, advising potential providers on the proposed process, timeframes and key drivers behind the whole project. An OJEU Contract Notice (notice reference 2018/S 182-412169) was published on 21 September 2018; an advert was also placed on the Contracts Finder website (notice reference KENT001-DN365332-26495110).
- 1.4 The proposed specification was then published on the Kent Business Portal for feedback from the market. 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, removing them from further participation at each stage, if they did not meet the criteria.

2. Strategic Statement and Policy Framework

- 2.1 The decision taken supports KCC's Strategic outcome to ensure that older and vulnerable residents are safe and supported with choices to live independently. It does this through providing a service which works with people to identify their aims and aspirations, connects people to activities and services to help meet these, and which promotes wellbeing and reduces social isolation.
- 2.2 The decision also supports the Your Life, Your Wellbeing Strategy 2016-2021, supports the development of Local Care Models as outlined in the Kent and Medway Sustainability and Transformation Plan and enables the council to meet its duties under the Care Act 2014 by promoting wellbeing for individuals and their carers, through the provision of information and advice that enables people to make choices about their care.

3. The Report

- 3.1 The council is embarking on a journey to transform social care in Kent. Within the context of this opportunity, it is imperative that individuals are at the heart of the care and support they receive, which should be easy to access, of good quality and which maximises their ability to live independently and safely in their home and community. This will support the council's strategic objective 'to help people to improve or maintain their well-being and to live as independently as possible'. The council has an ambition to deliver the service through a sustainable market that has the capability and capacity to deliver a quality and accessible service countywide, in both urban and rural locations.

- 3.2 One of the core reasons for the procurement of multiple services types under one contract was the opportunity to reduce fragmentation in the market for community-based services. At present, a very high number of providers deliver very similar tasks in people's homes. The number of providers in the marketplace often prevents the creation of efficient rounds of care and reduces the financial viability of care packages for providers. Bringing services together as one contracted provision has been designed to address these challenges and give greater control to manage fluctuation in demand for services
- 3.3 Supporting Independence Services and Home Care Services constitute Phase One of the Care and Support in the Home Contract. Future phases will entail procurements for:
- Discharge to Assess
 - Supported Living
 - Extra Care background hours.
- 3.4 The services in scope deliver very similar tasks in people's homes and there is an opportunity to improve consistency of delivery and bring services together under one contractual arrangement, with the aim to reduce silos, avoid duplication and improve outcomes. 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'. It will also develop a clearer pathway, with less handoffs between services and from a provider perspective it will allow greater flexibility and control to manage fluctuations in demand to meet assessed needs.
- 3.5 Care and Support in the Home Services will support people to take greater control of their lives by providing them with the skills to maintain a good quality of life and helping them to retain and develop skills to maintain independent, fulfilling lives for as long as possible. Care and Support in the Home Services will put the person (and their primary carer/family) at the centre of decisions about how they are supported and cared for. Services should be provided in such a way that the person feels involved, secure and confident in the care and support delivered to them.
- 3.6 Prior to the commencement of the procurement a Project Initiation Document (PID) was co-produced by the Project Director and the Procurement Category Lead. The PID outlined a number of key principles around the project and most importantly the project governance and approval mechanisms in place for the project.
- 3.7 For the purpose of this procurement, the geographical area covered by Kent County Council was divided into Cluster Groups, each of which constituted a Lot. Whilst there were no restrictions on how many Lots the tenderers could bid for, a critical element of the negotiation process was to determine the viability of the tenderer's bid and ensure they would be capable of safely scaling up to meet the requirements of delivering a high volume, high quality service

- 3.8 This contract has been divided into 19 Lots. The Lots were determined based on Office for National Statistics Middle Super Output Areas (MSOAs). MSOAs group the population based on an area with approximately 5,000 residents in each area. This means that MSOAs differ significantly in geographical size, with urban areas being concentrated and rural areas more widely spread. Detailed information can be found in Appendix A (Lotting Strategy).
- 3.9 The procurement process was facilitated using the ProContract facility on the Kent Business Portal. The contract tender was opened on 18 September 2018 and closed on 18 October 2018. A total of 70 applications were received with providers applying for a range of lots.
- 3.10 Following initial evaluation of mandatory criteria 15 providers did not meet the specified criteria. The remaining 55 providers proceeded to the negotiation phase. (see Appendix B: Award Criteria and Quality Questions)
- 3.11 Where tenderers met the selection criteria, their quality question submissions were then assessed. Tenderers had been asked to respond to the Service Specification and answer a series of six questions designed in collaboration with key stakeholders to determine the tenderer's capability and capacity for delivering the service and these were to be discussed in detail during the negotiation phase.
- 3.12 Prior to any consideration being given to proposed costs or pricing, tenderers needed to score at least 60% and reach a minimum score per question. Tenderers were required to score a minimum of two (acceptable) per question for questions 2, 3, 5 and 6 and a minimum of three (good) for questions 1 and 4. They were required to achieve the minimum score for every question in order to be successful and move to the next stage of the process. Each answer is scored and weighted in accordance with the Quality Questions as detailed in Appendix B.
- 3.13 Initial applications were evaluated by a total of 38 evaluators. The evaluation team was made up of stakeholders from a range of teams including Strategic Commissioning, Purchasing and Operational Adult Social Care and Health colleagues. Each section was evaluated by the relevant subject matter experts. All members of the evaluation team signed a Conflict of Interest and Confidentiality Undertaking Form prior to any involvement in this process. No conflicts of interest have been declared.
- 3.14 A number of clarifications were required through the evaluation process, to address ambiguity discerned in the responses. Where information or documentation supplied as part of a submission appeared to be incomplete or erroneous, or where specific documents were missing, the tenderer concerned was asked to submit, supplement, clarify or complete the relevant information or documentation in line with Regulation 56 (4) of PCR 2015. Tenderers were given an appropriate period of time to respond to clarification requests.
- 3.15 Tenderers were required to submit a Pricing Schedule as part of their initial ITT submission. Although it was not scored prior to the negotiation stage, it was

reviewed by commissioners and checks were conducted against the tenderer's Companies House records. The Pricing Schedule was essential in assisting commissioners in understanding whether the tenderer's proposed Service Model was representative of a capability to provide a sustainable, good quality service and ensure fair pay for its workers.

- 3.16 A procurement process incorporating a negotiation phase was agreed at an early stage of the project with senior stakeholders in Strategic Commissioning. It was recognised that whilst this represented a significant investment of resources, the negotiations would provide assurance of the tenderer's capability to deliver to the specification and offer an opportunity to interrogate their delivery model.
- 3.17 In total, 55 tenderers took part in negotiation meetings which were held between Thursday 22 November and Thursday 20 December 2018. All tenderers who submitted a tender submission (and met the selection criteria) were invited to attend a meeting, regardless of whether they had initially met the quality threshold. The negotiations were not evaluated. They provided an opportunity for both tenderers and commissioners to participate in an open and honest discussion about the requirements of the Care and Support in the Home Service and the quality of the bids submitted by tenderers.
- 3.18 Each meeting comprised of a 90 minute session, of which ten minutes was allocated for a general project update, 40 minutes to review the tenderer's commercial proposal and 40 minutes to review the tenderer's quality submission.
- 3.19 Tenderers were given feedback on their tender submission at the negotiation and were given an opportunity to review and adapt their Pricing and Quality Submissions and resubmit these for evaluation within ten working days. The last resubmissions were returned by 9 January 2019. All tenderers have been evaluated and assessed in line with the declared scoring methodology. All scores were subject to a moderation process, which took place between 14 and 18 January 2019.
- 3.20 Feedback from the negotiation meetings was overall very positive, with many tenderers making a point of saying how positive they had found the process and emphasising how much they valued the opportunity to participate in an open dialogue with the council. Following the negotiation meetings, a total of 15 tenderers took the decision to withdraw their bids from the tender process for a variety of reasons.
- 3.21 Tenderers submitted a pricing schedule to demonstrate the components of their unit cost for various geographical Lots and for the Standard and Complex Service. Commercial evaluation looked to link the tenderers written response with the costs on the Pricing schedule.
- 3.22 There was a significant variance reflected in the pricing submissions from tenderers and the negotiation meetings offered an opportunity to ensure that tenderers had a full understanding of the information they had submitted. Some

smaller tenderers had not benefitted from the expertise of accountants and required clarification on some of the pricing submission structures, whilst larger tenderers tended to have this function available in-house.

- 3.23 The negotiation meetings ensured that smaller providers and providers new to the market were not at a disadvantage due to lack of prior knowledge and that all providers were given the opportunity to ensure they fully understood the pricing breakdown. The final financial offering of tenderers were subject to a high level of scrutiny, particularly in regards to their overheads and staffing costs.
- 3.24 As expected, there was a large variance in the proposed wages for care workers under this contract according to the geographical Lot and the distinction between Complex and Standard Service delivery. During the negotiation stage, discussions focused on ensuring the tenderer had sufficient knowledge of the local workforce to understand the wages required to effectively recruit and retain staff, ensuring service capacity at all times of year
- 3.25 Several tenderer's overheads submissions demonstrated a fundamental misunderstanding of their responsibilities in relation to areas such as National Insurance costs and holiday pay. The negotiations were used to address these concerns and to instruct tenderers to use the opportunity to resubmit their pricing submission to update these figures. During the final pricing evaluation, the commissioning team looked for anomalies, errors and omissions in relation to overheads, to ensure the commercial offering submitted represents a viable option for the council.
- 3.26 Some tenderers failed to distinguish between Standard and Complex Service provision in their unit cost, and staff pay rates. In some instances, this raised concerns regarding their understanding of the requirements of the specification; this was addressed in negotiation discussions. In other submissions, tenderers reflected a distinction between Standard and Complex provisions in their unit cost but failed to pass this differential on to their workforce. This was addressed in all instances, and throughout negotiations commissioners placed an emphasis on reflecting any increase in rates in workers' pay.
- 3.27 The proposed profit margins in tenderer's pricing submissions varied enormously from 3% at the bottom end of the range up to over 30% at the highest end. Profit margins at either end of this extremity were discussed with tenderers. At the lower end of the scale tenderers were asked, at the negotiation stage to consider revising this upwards to ensure financial sustainability over the life of the contract. All tenderers were told that, in line with UK Home Care Association (UKHCA) guidance (which predicates a unit cost breakdown on a 3% profit margin), the anticipated profit margins for tenderers within this market were between 3 – 9%, and that any figure falling significantly outside of this range was likely to be deemed financially unviable by the council.
- 3.28 Most tenderers who continued through the process took the opportunity to resubmit both their Pricing Submission and their Quality Submission (or

sections within), based upon the discussions and feedback from the negotiation meetings. An evaluation handbook was produced and approved by senior stakeholders prior to the first evaluation phase of this tender process and re-issued ahead of the second evaluation phase in January 2019. This was to ensure that all key stages of the evaluation process were sufficiently detailed and properly understood by key evaluators and stakeholders.

- 3.29 Strategic Commissioning was responsible for management of all moderation sessions. All evaluators had to independently assess their allocated questions, provide a score and record notes to justify them. Following this, the scores were subject to moderation to ensure that the scoring methodology was robust and that the scores represented a complete and objective analysis of the submissions. This process was applied at both the initial submission phase and the final submission phase.
- 3.30 The moderation process was broken down into meetings for each question, meaning that evaluators only needed to attend the relevant meetings for the questions they had evaluated. Moderation for each question was led by a Commissioner who had not evaluated that question. Questions 1, 2, 3, 5 & 6 were moderated by a senior commissioning officer and question 4 was moderated by commissioning officer.
- 3.31 Where evaluators were not able to attend the meeting to discuss their scores, commissioners contacted them by phone to discuss questions where the evaluators were not unanimous in their scoring. Holding moderation discussions in this way ensured equity of approach, ensured that all evaluators were able to participate in the moderation discussion and ensured that final scores were robustly discussed and agreed at moderation by all representatives.
- 3.32 Those tenderers who showed a good understanding of the needs of the council, the workforce and taking into account the relevant geography were passed to the council's Financial Assessments Team and financial assessments were carried out by an accountant in Strategic and Corporate Services.
- 3.33 Assessments were undertaken based on tenderers' submitted financial accounts. The financial assessor used a number of measures to assess financial stability, such as liquidity and profitability ratios, turnover and profit trends, turnover in relation to contract value, total assets and liabilities. CoCredo credit reports were also used to verify results. A holistic view was taken on the financial stability of each tenderer and any potential risk to the council or service continuity by entering into a contract with these organisations.
- 3.34 All tenderers progressing to this stage of the process passed the Financial Assessment. No concerns were highlighted with regards to any of the potential successful Providers.
- 3.35 During the evaluation stage of the Care and Support in the Home Service, the commissioning team looked to ensure that each Cluster Group had some Contracted Provider presence with the capacity and capability to safely and

appropriately meet both Standard and Complex assessed needs. Where, for example, six tenderers were required, and the six highest ranked tenderers did not cover both the Standard and Complex assessed needs groups, the council removed the sixth ranked tenderer and replaced this with the highest ranked tenderer (who also meets all necessary criteria) with the next ranked tenderer who meets the needs of the previously unmet group. As a responsible commissioning authority, this approach ensures the Care and Support in the Home Service meets the Council's strategic outcome that 'older and vulnerable residents are safe and supported with choices to live independently' and the strategic objective of supporting a sustainable market with the capacity and capability to deliver quality Care and Support in the Home Services, with equitable access across Kent regardless of level of need or postcode.

3.36 Following this formal tender process, 26 Providers were successful and have been awarded contracts to deliver services under the Care and Support in the Home Service Contract. These remain confidential until the end of standstill.

3.37 As the intent is for no Mass Mobilisation of clients away from their current provider, commissioners are currently working with Current, Future and Non contracted providers to implement the contract in a safe and sustainable fashion.

4. Financial Implications

4.1 The contract will commence on 8 April 2019 and continue for a period of 60 months (ending 7 April 2024) with the option for a three-year extension. The annual value of the contract is circa £110m.

5. Legal Implications

5.1 No mass mobilisation of clients is expected due to this process however there may be situations where a provider may wish to hand back packages of care, in these situations TUPE may apply and as such has been identified as an implication of the project. This process is being managed through the mobilisation of the contract.

6. Equality Implications

6.1 As identified in the previous Cabinet Committee report the people most likely to be impacted by changes to this service are older or vulnerable residents and carers who are the recipients of the current service.

6.2 The decision not to mass mobilise existing clients onto the new contracts and new providers will initially reduce the impact on current clients and any future changes in providers will be carefully managed.

7. Conclusions

- 7.1 The council's Strategic Commissioning Division was commissioned to manage the procurement for Care and Support in the Home Services delivered within people's homes and in the community, incorporating the service provisions previously known as Home Care and Supporting Independence Services (Community Based) (SIS).
- 7.2 Following endorsement by the Adult Social Care Cabinet Committee a procurement process was undertaken for this new service which would combine a number of existing services provided within the home. The activity detailed in this report represents Phase One of the process.
- 7.3 The contracted was lotted in the 19 geographic lots. The tender was open between 18 September and 18 October 2018 and 70 applications were received.
- 7.4 The new service will be in place as of April 2019.

8. Recommendation

8.1 Recommendation(s): The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **COMMENT** on the content of the report

9. Background Documents

18/00030 - Care in the Home Service – Decision Report
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2186>

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