

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 – 29 November 2022**

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

Decision Number and Title – **22/00104**

Non-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 use the final allowable extension of the Direct Payment Support Service contract for a period of 12 months from 1 April 2023 to 31 March 2024.

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 to enable Commissioners to enact the final 12-month extension of the Direct Payment Support Service from 1 April 2023 to 31 March 2024

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 of 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 The Disabled Children and Young People Service 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. The contract is currently in the first of the two available extensions and demand for the service is increasing beyond current capacity. An options appraisal has been undertaken and the cost of the recommended option, to extend the contract for the final year, will exceed the original Key Decision of £1.7 million over the five-year term and a further Decision is required to authorise the additional expenditure.

2. Current Position

2.1 Current caseloads, held by the providers workers, at the end of September 2022 were 1,143 cases, against a maximum contracted capacity of 1,220. Based on current trends it is expected that the maximum capacity of 1,220 cases will be exceeded by the end of March 2023. It is proposed to further increase the capacity of the service for 2023/2024 from the current maximum 1,220 cases to 1,340 cases, preventing the implementation of a waiting list, which is forecast to be of 8-12 weeks in length if no additional capacity is agreed.

2.2 The Low Pay Commission (LPC) are tasked by the UK Government to monitor and evaluate the National Living Wage (NLW), and they then recommend a rate. The LPC have published information that details an indicative NLW path, which forecasts £10.32 for April 2023 and £10.95 for April 2024. We can be confident that the rise in NLW will impact on around 90% of all DP cases by April 2024 as these rises are sweeping almost all PA rates in, so that they are paid at the NLW level.

2.3 Each year the Direct Payment Support Service undertakes a re-costing exercise to adjust Direct Payment amounts for Personal Assistants (PA's) and the increase in NLW, which is not part of the original contract. The volume of this work is undertaken by Direct Payment Support workers as overtime and charged to KCC separately.

2.4 It is proposed to extend the contract for the final extension period to include this work. The cost of a further case worker per annum is lower than the expected cost to complete the work outside of the contract. The provider has indicated that without this commitment of additional resource the service will not have

capacity to undertake the volume of work, meaning that re-costings will not be completed and likely to incur enforcement action from HMRC.

- 2.5 One of our key ambitions as a Council is to empower users through co-production and listening more effectively to those using the service when considering changes and improvements. An annual user satisfaction survey is undertaken by the provider and indicates that as of March 2022 100% of DP recipients rate the support they receive as 'good' or 'excellent', and a similar number stated that the knowledge of the worker provided to support them was 'good' or 'excellent'. A range of other questions are included in the survey and the 'good' or 'excellent' scores maintained an average of 100% of responses across the board.
- 2.6 A full review of the current Direct Payment offer itself is underway and a further development phase will be required including a range of workshops with parents and users to define and coproduce systems and process that work best for all concerned.
- 2.7 There are links to the development of the Short Breaks Strategy that will be explored to improve our offer and build a more responsive market response to family's needs. Enacting the final one-year extension will support the alignment of the Short Breaks Strategy with the Direct Payment Support Services and facilitate an assessment of future capacity needs to.

3. Options

- 3.1 An options appraisal has been undertaken by Commissioners, in discussion with colleagues in Children Young People and Education (CYPE) Directorate and Finance. The following 4 options were considered and discounted.

Option 1: Do nothing. The Direct Payment Support Service contract will cease on the 31 March 2023 and CYPE will have to make alternative plans for the administration and support for CYPE 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. This option is discounted.

Option 2: Extend with no additional capacity. Cases are forecast to increase beyond current contractual capacity, this means that a waiting list will be implemented with the anticipated wait length being 8-12 weeks before the case can be allocated. This increases the risk of complaints by parents and carers, of delay between assessment and access to a DP. Delays may increase the risk of families going into crisis, requiring additional support. This option is discounted

Option 3: Extend and include additional resource for NLW re-costings. Cases are forecast to increase beyond current contractual capacity, this means that a waiting list will be implemented with the anticipated wait length being 8-12 weeks before the case can be allocated. This increases the risk of complaints by parents and carers, of delay between assessment and access

to a DP. Delays may increase the risk of families going into crisis. This option is discounted

Option 4: Extend and increase capacity to 1,340 cases. This option provides increased capacity but does not provide for the significant number of NLW re-costings. The provider has indicated that due to volume, they will not be able to complete this work (off contract) as in previous years. There are no arrangements in CYPE to undertake this function and failure to adjust the DP to align with NLW will mean the Council is non-compliant. This option is discounted

Option 5: Extend and increase capacity to 1,340 cases, including NLW re-costing. This option will ensure that the service provider will be able to continue to accept new referrals and negate the need for a waiting list. In addition, option 5 ensures compliance with changes in NLW and the rate that PA's get paid.

- 3.2 The preferred option is option 5, to extend with increased capacity and incorporate NLW re-costings. This will ensure that there is capacity within the contract to accept new referrals and ensure compliance with changes in NLW.

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 costs for the contract are funded from the Children's Disability 0-18 Commissioning Revenue Budget. Efficiencies within this budget are expected to fund the majority of the increase required, with the increase relating to inflationary pressures, to be identified as part of the medium-term financial plan.
- 4.3 It is also acknowledged that utilising Direct Payments can be more cost effective than traditionally purchased services.
- 4.4 The implementation of the recommended option means that original Key Decision of £1.7 million, over the five-year term, will be exceeded by £315,000 and Cabinet Member for Integrated Children's Services is asked to approve the Recommendation.
- 4.5 The cost of Commissioning for this proposed action is £240
- 4.6 For context to understand the impact on potential funds returning to KCC due to DP's not being used during the current contract, the provider identified the following sums for reclaim:

2019/20 – Total of £1,093,509 (Social Care = £1.07m / Education = £31.2k)
2020/21 – Total of £1,281,465 (Social Care = £1.2m / Education = £61.7k)
2021/22 - Total of £1,571,342 (Social Care = £1.14m / Education = £157.2k)
2022/22 – YTD total of £865,863 (Social Care = £736.9K/ £128.8k)

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 The contract legitimately allows for the extension.

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 and Young People and Education's Directorate, with service accountability in the Special Educational Needs and Disabled Children and Young People's Services Division.

8. Conclusions

- 8.1 A full review of the current Direct Payment offer itself is underway and a further development phase will be required including a range of workshops with parents and users to define and coproduce systems and process that work best for all concerned.
- 8.2 There are links to the Short Breaks Strategy that will be explored in order to improve our offer and build a more responsive market response to family's needs. Enacting the final one-year extension will support the alignment of the Short Break Strategy with the Direct Payment Support Services and facilitate an assessment of future capacity needs.
- 8.3 The original Key Decision stated that the contract will be for three years with two, 12-month extension options, within a maximum budget of £1.7m. The increased cost of the first extension enacted means that a further Decision is required to enact the final 12-month extension. It is worth noting that even at the three-year fixed contract price a further Decision would be required for the final extension due to exceeding the maximum budget in the original Decision.
- 8.4 Extending the contract now will give the provider reassurances of funding for the next 12 months. Changing the current funding arrangements, could have a destabilising impact on this provider and market analysis shows that there is not a large market of providers to call upon to deliver this service.

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 to enable Commissioners to enact the final 12-month extension of the Direct Payment Support Service from 1 April 2023 to 31 March 2024

9. Background Documents

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

10. Contact details

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