

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

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

**Subject:** Carers' Support Services

**Key Decision :** It affects more than 2 Electoral Divisions and it involves expenditure over £1m

**Decision no:** 24/00113

**Classification:** Unrestricted

**Past Pathway of report:** Adult Social Care Cabinet Committee – 15 January 2025

**Future Pathway of report:** Cabinet Member decision

**Electoral Division:** All

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**Is the decision eligible for call-in? Yes**

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**Summary:** Kent County Council has statutory responsibilities under The Care Act 2014 which include assessing the needs of any adult (cared for or carer) with an appearance of need for care and support, and arranging services where appropriate to meet the unmet eligible needs of adults living in Kent. The 'Community Navigation Services (Part B)' and 'Carers' Short Breaks contracts support the council to meet this duty.

The current contracts for 'Community Navigation Services (Part B) and 'Carers' Short Breaks' expire on 31 March 2025.

The original project plan for procurement of the Carer's Support Service was scheduled for key decision in September 2024 however due to capacity issues the project was delayed. Work is now progressing on the development of the Carers' Support Service and to allow this activity to be completed, a twelve month extension of the current contracts until 31 March 2026 is required.

**Recommendation(s):** The Cabinet Member for Adult Social Care and Public Health is asked to:

- a) **APPROVE** a direct award of the Carers' Short Breaks contract, for a period of twelve months, from 1 April 2025 to 31 March 2026, in accordance with the relevant justifications set out in Regulation 32(2)(c) of the Public Contract Regulations 2015;
- b) **APPROVE** a modification in the form of an extension of the contract for a period of twelve months for Community Navigation Services (Part B), from 1 April 2025 to 31 March 2026, in accordance with the relevant justifications set out in Regulation 72 of the Public Contract Regulations 2015;

- c) **APPROVE** commencement of procurement for a new Carers Support Services contract which combines both Carers Short Breaks and Community Navigation Services (Part B); and
- d) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to take 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.
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## 1. Introduction

- 1.1 There are many different types of carer and they come from all walks of life, ages, ethnicities, and backgrounds - anyone can find themselves in a caring role at some point in their life. The Care Act 2014 defines a carer as someone in an unpaid role who provides or intends to provide care and/or support to another adult.
- 1.2 The Kent Adult Carers' Strategy 2022 to 2027 describes how Kent County Council (KCC) will work with all partners to make changes to improve the experiences of unpaid adult carers in Kent. It was developed in partnership with carers, people who draw on care and support, carers organisations, staff, and county councillors.
- 1.3 Kent's strategy for Adult Social Care – Making a Difference Every Day and the Kent Adult Carers' Strategy sets out the vision: 'Making a difference every day by supporting and empowering you to live a fulfilling life whilst being a carer, as long as you are willing and able'.
- 1.4 This ambition will be achieved by focusing on the following areas:
- Supporting you to be you - to live a full life, carers have told us that they need the right support so they can make time to get everyday tasks done.
  - Providing the best support possible - carers have been clear that they, and the people they look after, need to be treated with respect and supported through every stage of their journey - not just during a crisis.
  - Positive outcomes - everything we do alongside providers and partner organisations should focus on what makes a real difference and leads to positive change in carers' experiences
- 1.5 Building on the Kent Adult Carers' Strategy we want to commission an improved offer for carers. We have been developing proposals for a future model with carers and through engagement with the market.

- 1.6 Leading from what carers told us we are considering introducing a single point of access for carers support services that is well promoted and marketed, likely through a lead provider for East Kent and a lead provider for West Kent. We will ensure a greater focus on the benefits of completing a carers assessment so we can better understand the needs of carers. We will introduce a more local community based approach ensure the service has a wider reach into all parts of the community across Kent. The expected benefits:
- provide a more equitable support service across the county
  - deliver a more efficient model
  - ensure accurate recording of the needs of carers
- 1.7 In order to build on the work and co-production that has taken place and allow for the completion of the procurement process, this paper is seeking approval to extend the current contracts.

## **2. Key Considerations**

- 2.1 In Kent, there are an estimated 148,341 adults providing unpaid care each week. KCC aim to support carers to maintain their own identity and live a full life. The support provided by carers can prevent, reduce and delays the need for care and support from both health and social care.
- 2.2 KCC has statutory responsibilities under The Care Act 2014 which include assessing the needs of any adult (cared for or carer) with an appearance of need for care and support, and arranging services and where appropriate meeting the unmet eligible needs of adults living in Kent. Where it appears to the local authority that a carer may have needs for support (whether currently or in the future), a carers' assessment must always be offered.
- 2.3 The Carers' Support Services will offer a range of support such as a carers assessment, provided through delegation afforded by The Care Act, information and advice, support to access to activities, peer support, training and both planned and unplanned breaks to help carers in their caring role.

## **3. Background**

- 3.1 The Community Navigation Services and the Carers Short Breaks contracts are due to expire on 31 March 2025, with no further extensions available, from the original procurement. To support the procurement of a new Carers' Support Service contract, the Community Navigation Service contract, which is jointly funded between KCC and the NHS Kent and Medway requires modification of contract under Regulation 72(1)(b) of PCR 2015, to enable the Council to continue to commission the Part B service, for a further period of one year, while the procurement of the Carers' Support Service is being undertaken.
- 3.2 The Carers' Short Breaks service was directly awarded to the incumbent on 1 April 2024 and for a period of twelve months, to allow time for the new service to be co-produced with stakeholders including people with lived experience which aligns with the Community Navigation service. A range of co-production and pre-procurement activity has taken place but has not yet concluded

therefore, the Council now needs to make a further direct award of contract under Regulation 32(2)(c) of PCR 2015, to enable the Carers' Support Service to be undertaken.

- 3.3 The annual contract value for the Community Navigation Services Part B service and the Carers' Short Break service are set out below:

**Community Navigation (Part B Carers)**

|                               |                   |
|-------------------------------|-------------------|
| East Kent                     | £1,928,899        |
| West Kent                     | £1,127,188        |
| Dartford, Gravesham & Swanley | £515,859          |
| Swale                         | £188,259          |
| <b>Total</b>                  | <b>£3,760,205</b> |

**Carers Short Break Service**

**£3,087,241**

Combined

**£6,847,446**

- 3.4 The Integrated Care Board (ICB) contributes £1,252,704 to the Community Navigation (Part B) contracts and £779,681 to the Carers' Short Break Service.
- 3.5 To prepare for commissioning the new carers support service a range of pre-procurement activity has taken place.
- 3.6 Market engagement has taken place to inform the market of this opportunity and individual meetings have been held with the service providers delivering the current carers support services, to allow for the opportunity to ask questions and to get their feedback on future delivery models. Carers' Involvement meetings have taken place to work with carers to better understand how the offer can be improved. Co-production with carers will continue throughout the commissioning process. The table below sets out the proposed procurement timeline.

| <b>Proposed Procurement Timetable</b>                       | <b>Date</b> |
|---|-------------|
| Commercial and Procurement Oversight Board                  | 13/03/2025  |
| Publish Tender Notice                                       | 21/04/2025  |
| Tender Deadline   | 21/05/2025  |
| Assess Tender (Evaluation and Moderation)                   | 24/06/2025  |
| Cabinet Committee for Adult Social Care (Approval to Award) | 10/09/2025  |
| Mobilisation (following standstill)                         | 01/01/2026  |
| Service Commencement Date                                   | 01/01/2026  |
| <b>(All dates subject to change)</b>                        |             |

- 3.7 The contracts currently operate separately. Building on the feedback from carers and other stakeholders, through the recommission we will:
- introduce a single point of access for carers support services that is well promoted and marketed.
  - increase the focus on the benefits of completing a carers assessment
  - ensure a more local community based approach.
- 3.8 A Commercial Strategy, including the procurement plan and approach to the market, will be developed and submitted to the Commercial and Procurement Oversight Board for approval, prior to the commencement of the procurement. Waivers Applications for the modification of the two contracts will be submitted for approval, to the Head of Commercial and Procurement, the Section 151 Officer and Monitoring Officer, as necessary and in accordance with Spending the Council's Money.
- 3.9 We propose to procure a three year contract, with two permitted extensions of up to two years giving a potential total contract length of seven years. The future budget for Carers' Support Services is to be agreed between the council and NHS Kent and Medway. There are no plans from the council to reduce the budget for Carers Support Services and the proposed contract extensions have no impact on the Medium Term Financial Plan (MTFP).
- 3.10 We will bring the outcome of the procurement process to a future Adult Social Care Cabinet Committee and seek approval to award the contracts.

#### **4. Options considered and dismissed, and associated risk**

- 4.1 With regard to extending the contracts the following options were considered.

##### Option A - Reprocure the contract within a short timeframe

Preparatory work has already been completed. This includes a range of co-production activity with carers, engagement with the market and other stakeholders to determine the requirements of the future offer. We would not want to lose the benefits of this work by rushing through a procurement exercise which does not continue to involve and engage stakeholders at every stage of the process. The council is also not assured there are currently reasonable alternatives in the market which could mobilise in such a short space of time. Additionally, the procurement will be undertaken under the Procurement Act 2023 Regulations, and as the legislation is new, it is important to ensure to ensure that the council does not undertake a rushed exercise and inadvertently breaches the regulations.

##### Option B - End the contracts on 31 March 2025

whilst it is recognised that ending these contracts could deliver a significant saving to the council, ending the contract was dismissed at this point for the following reasons:

- Loss of current support to vulnerable people
- People accessing the contract may fall into crisis resulting in a high financial pressure on KCC operational services (negates possible benefit of saving on the contract value)

- Increased isolation and loneliness to unpaid Carers.
- Statutory duties non-compliance under the Care Act 2014.
- Bringing the carers' assessment responsibility back into the council's adult social work teams would incur significant impact on delivery and budget

#### Option C - Spot purchase services

Officers are of the opinion that it would likely cost the council more money through individual arrangements with providers, lose consistency in service offer and risk oversight and control of the quality of provision. The council would also be in breach of the Procurement Act 2023.

#### Option D - Modify the Community Navigation Service contract under Regulation 72(1)(b) to extend for a twelve-month period and direct award the Carers' Short Breaks under Regulation 32(2)(c) for a period of twelve-months, to allow for the recommissioning of the Carers' Support Service contract to continue.

This is the recommended option as the Public Contracts Regulations 2015 may permit a modification of the Community Navigation Service contract, under Regulation 72(1)(b). To satisfy the requirements of Regulation 72(1)(b), any modification of the contracts, without a new procurement procedure being undertaken, must be for additional works that have become necessary and were not included in the initial procurement, where a change of contractor cannot be made for economic or technical reasons or would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided that any increase in price does not exceed 50% of the value of the original contract. The proposed modification of the contracts were not originally planned but have become necessary, as we need time remodel and reprocur the Community Navigation (Part B) and Carers' Short Breaks service into a single service offer, and a change of contractors for a limited period of twelve months would cause significant inconvenience or substantial duplication of costs for the contracting authority, and the value of the proposed extension in both instances is less than 50% of the original contract value, the requirements of Regulation 72(1)(b) are met. Additionally, PCR 2015 may permit the council to direct award the contract for Carers' Short Breaks. However, given that this would be a second direct award of the Carers' Short Breaks contract, it may be necessary for the council to publish a Voluntary Ex-Ante Notice (VEAT), informing the market of its intentions, to mitigate a challenge of ineffectiveness under the PCR 2015 Regulations.

## **5. Financial Implications**

- 5.1 The future budget for Carers' Support Services is to be agreed between the council and NHS Kent and Medway Integrated Care Board (ICB). There are no plans from the council to reduce the budget for Carers' Support Services.
- 5.2 At the present time the value of the contracts for the extension period is expected to remain the same. The current total annual value of the services is £6,847,446 and this would be the maximum value for the twelve month extension period.

- 5.3 NHS Kent and Medway ICB contributes £1,252,704 to the Community Navigation (Part B) contracts and £779,681 to the Carers' Short Break Service and has confirmed their commitment to the contract will remain for the extension period.
- 5.4 The proposed contract extensions have no impact on the Medium Term Financial Plan (MTFP) and there are no plans to make savings against these services.

## **6. Legal implications**

### **6.1 Care Act Implications**

- 6.1.1 KCC has statutory responsibilities under The Care Act 2014 include assessing the needs of any adult (cared for or carer) with an appearance for care and support and arranging services and where appropriate meeting the unmet eligible needs of adults living in Kent. Where it appears to the local authority that a carer may have needs for support (whether currently or in the future), a carers' assessment must always be offered.
- 6.1.2 In summary, the services are necessary and will allow KCC to recommission a new carers offer that better meets the needs of carers.

### **6.2 Procurement Regulations Implications**

- 6.2.1 Regulation 72 (3) of PCR2015, requires Contracting authorities which have modified a contract in either of the cases described under Regulation (1)(b) and (c), as is recommended in this paper, should send a notice to that effect for publication, in accordance with Regulation 51. The risk to the council is that an alternate service provider may bring a legal challenge, arguing that the justifications in section 4 of this paper for the modification of the Community Navigation Service do not satisfy Regulation 72. Officers will mitigate the risk of such a challenge by publishing a Notice on the central government "Find a Tender Service". This will notify the market of the council's intention to award this contract under Regulation 72 and start the 30 day time limit in which procurement challenges must be brought. This will have the effect of flushing out and/or time-barring any procurement challenge, allowing the council to make the modification with confidence once the 30-day time period has expired.
- 6.2.2 As the Carers' Short Breaks Service has been subject to a previous direct award under Regulation 32(2)(c) of PCR 2015, it is recommended that to mitigate the risk of challenge on the grounds of ineffectiveness (Regulation 99), that the Council publishes a VEAT Notice. The Public Contracts Regulations 2015, SI 2015/102, reg 99(3) provides that the above ground for ineffectiveness will not apply if the contracting authority:
- considers the contract award (without prior publication of a contract notice) to be permitted by the Public Contracts Regulations 2015, SI 2015/102, Pt 2
  - publishes a voluntary transparency notice indicating its intention to enter into the contract, and

- observes a standstill period of at least ten days beginning with the day after the date the voluntary transparency notice was published.

6.3 Commissioners will follow the procurement regulations and Spending the Council's Money in relation to any procurement that is undertaken.

## **7. Equalities implications**

7.1 An Equality Impact Assessment has been completed for the activity of recommissioning the service and the contract extensions (Attached as appendix 1).

7.2 The aim of the new service offer will be to deliver a service which is more identifiable to carers, able to reach a greater number of carers from different communities and with different protected characteristics.

## **8. Data Protection Implications**

8.1 A Data Protection Impact Assessment (DPIA) initial screening has been completed. No personal identifiable information will be collected for the extension process. A full DPIA will be completed for the procurement of the new service

## **9. Conclusions**

9.1 KCC has statutory responsibilities under The Care Act 2014 which include assessing the needs of any adult (cared for or carer) with an appearance for care and support, and arranging services, where appropriate meeting the unmet eligible needs of adults living in Kent. The 'Community Navigation Services (part B)' contracts and 'Carers' Short Breaks' contract support the council to meet this duty.

9.2 Building on the vision of the Kent Adult Carers' Strategy and the range of co-production with carers that has taken place we have an opportunity to commission a new carers offer which will:

- introduce a single point of access for carers support services, that is well promoted and marketed.
- increase the focus on the benefits of completing a carers assessment
- ensure a more local community based approach

9.3 Extending the existing carers contracts will allow for continuity of service whilst the recommissioning exercise is completed.

**10. Recommendation(s):**The Cabinet Member for Adult Social Care and Public Health is asked to:

- a) **APPROVE** a direct award of the contract for a period of twelve months for Carers' Short Breaks, from 1 April 2025 to 31 March 2026, in accordance with the relevant justifications set out in Regulation 32(2)(c) of the Public Contract Regulations 2015;
- b) **APPROVE** a modification in the form of an extension of the contract for a period of twelve months for Community Navigation Services (Part B), from 1 April 2025 to 31 March 2026, in accordance with the relevant justifications set out in Regulation 72(1)(b) of the Public Contract Regulations 2015;
- c) **APPROVE** commencement of procurement for a new Carers' Support Services contract which combines both Carers' Short Breaks and Community Navigation Services (Part B); and
- d) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to take relevant actions concerning decision a) and b), including but not limited to finalising the terms of and entering into required contracts or other legal agreements, as necessary to implement the decision

## **11 Background Documents**

None

## **12. Report Author**

Ben Campbell  
Commissioning Manager  
03000 417581  
[ben.campbell@kent.gov.uk](mailto:ben.campbell@kent.gov.uk)

### **Relevant Director**

Richard Ellis  
Director Adults and Integrated Commissioning  
03000 410077  
[richard.ellis2@kent.gov.uk](mailto:richard.ellis2@kent.gov.uk)