

From: Graham Gibbens, Cabinet Member for Adult Social Care
Andrew Ireland, Corporate Director of Social Care, Health and Wellbeing

To: Adult Social Care Cabinet Committee – 9 June 2017

Decision No: 17/00030c

Subject: **COMMUNITY SUPPORT SERVICES - SUPPORTING INDEPENDENCE SERVICES CONTRACT CONTINUATION OR VARIATION THROUGH MUTUAL NEGOTIATION**

Classification: Unrestricted – Exempt appendix

Past Pathway of Paper: None

Future Pathway of Paper: Cabinet Member decision

Electoral Division: All

Summary: This report is provided to inform the Adult Social Care Cabinet Committee of the implications of aligning Supporting Independence Service contracts into the future delivery of community support services (in line with the Your life, your wellbeing Strategy) and ultimately achieving full integration with the NHS by 2020 (in line with the NHS 5 Year Forward View.)

Recommendation(s): The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **ENDORSE** or make a **RECOMMENDATION** to the Cabinet Member on the proposed decision (Attached as Appendix A) to:

- a) **AGREE** to continue service provision on the existing, or varied, terms and conditions through to 31 May 2019 and for other contracted providers where mutual negotiation can be agreed, to award varied interim contracts through to 31 May 2019;
- b) **DELEGATE** authority to the Corporate Director of Social Care, Health and Wellbeing, or other nominated officer, to undertake the necessary actions to implement the decision; and
- c) **AUTHORISE** officers to commence market engagement in readiness for the full procurement process, where required.

Introduction

- 1.1 Kent County Council endorsed the Adult Social Care Strategy, Your life, your wellbeing in December 2016. The new Vision and Strategy is based on the Care Act 2014. Under this Act not only is there a responsibility towards adults with care and support needs and their carers, but also a broader responsibility to promote the wellbeing of adults living in the area. This should help prevent some needs arising in the first place and delay their development.
- 1.2 The Council is already working with partners in developing new ways of doing things, with the aim of breaking down the barriers between organisations when they get in the way of better care and support. This includes the NHS, and the Your life, your

well-being Vision and Strategy is part of the broader process of joining up health and social care under the NHS Five Year Forward View.

- 1.3 The Strategy provides the best opportunity to establish the right pathways and develop new ways of working to deliver a sustainable service, whilst keeping people at the heart of everything we do. It also allows us to align activities and services for full integration with the NHS by 2020.
- 1.4 To enable the delivery of Your life, your well-being, a range of community based services need to be completely redesigned along with a thorough review of what the Local Authority can do and what can be delegated to bring efficiency and better outcomes to people in need of social care services and support.
- 1.5 There are a number of synergies between all community support services and commissioning intentions through Transformational design that this report seeks to continue, or in some cases potentially vary, the current arrangements and align with other activity as detailed in the Market Position Statement for Community Support Services. The majority of community support services, including the Supporting Independence Service (SIS), will be tendered with a procurement process starting late in 2017 so that full integrated service provision will be in place with compliant contracts in 2018/19. To be able to deliver this work, Single Source Justifications (SSJ) are required to continue these contracts and align them with the new programme timetable. This will also support placement stability and gradual transition of service users to new service provider(s) should existing providers be unsuccessful in the tendering process.
- 1.6 The Health Overview and Scrutiny Committee (HOSC) received an update on the Sustainability and Transformation Plan on 3 March 2017 and a report was presented to County Council on 16 March 2017. The HOSC report, provided as a background document to this report, gives important context to the aims of the Phase 3 Transformation Programme and the implications on the contracts the Council has to put in place for community support services.
- 1.7 Additionally, on 8 March 2017 in the Spring Budget, a further £2bn was announced for Social Care. This means, for KCC, £26m in 2017/18, £17m in 2018/19 and £9m in 2019/20 that has to be directed to sustain social care markets and address Delayed Transfers of Care. SIS is critical to both of these requirements.

2. Financial Implications

- 2.1 The total annual value of the proposed contract continuations for SIS is £44.2m, however for the full period requested this totals £89.1m. It covers services for people in the day time and, for some, overnight. The amount of people receiving services for day support is 1,683 and 581 overnight.
- 2.3 The activity of some of these services is similar in approach to other community support services commissioned by the County Council in that it is delivered in people's own homes to support, maintain or improve their independence or wellbeing or in supported and shared accommodation.

3. Market Position Statement

- 3.1 All interaction with providers and the Trade Associations over the last couple of years has resulted in discussions about how things can and should be done differently with outcome based services, different contractual, payment and risk share arrangements and more of a partnership approach. These discussions helped shape the Market Position Statement for community support services which can be found at:

http://www.kent.gov.uk/_data/assets/pdf_file/0004/60475/The-Social-Care,-Health-and-Wellbeing-Community-Support-Market-Position-Statement-FULL-statement.pdf

- 3.2 Within this document, there is a section on “Key Messages to the Market” which includes:

- Demographic change will significantly increase demand for care and support over the coming years but will not be matched by increases in public funding.
- We will be increasing investment in information and advice, preventative services, **assistive technologies to support independent living.**
- We will **move away from time and task home care and develop more person-centred models of support that are outcome focussed.**
- We will be exploring a range of models including **provider managed services and individual service funds to maximise opportunities for personalisation.**
- We will be looking for more cost effective ways of delivering care and support and we are **keen to work with providers who can offer innovative solutions, flexibility and value for money.**
- We will be **commissioning for care networks and models of support that bring traditional and non-traditional providers** together to ensure services are joined up and focus on promoting wellbeing and independence.
- We will be doing more **joint commissioning with the NHS and other partners looking for responsive and flexible models of support** that prevent hospital admission and/or support timely and effective discharges.
- Providers must plan and adapt their services to support the increasing numbers of people who are funding their own care.
- We will continue to promote self-directed support and increasing the numbers of people taking up personal budgets and direct payments, which will **decrease reliance on more traditional models of care and support** over time, as people choose more flexible and innovative ways to meet their needs.
- We want to explore and commission **models of brokerage and micro-provision of specialist or very local services.**
- There is currently an insufficient supply of personal assistants to meet the expected demand as the numbers of people directing their support increases.
- There are plans to facilitate a continued decrease in the number of publicly funded care home placements, as we look to **develop more personalised housing options**, including Extra Care Housing, **supported living** and Shared Lives.

4. Implementing a new model of community support

- 4.1 The Council is entering into Phase 3 of its Transformation Programme building on and learning from Phases 1 and 2. The Design Phase began in March 2017 and will last 24 weeks focusing on the need to radically transform the community support provision which will require the alignment of existing contracts to 31 May 2019.

However, it is fully intended that these services will be ready to be fully re-tendered for October 2018. The date of extension to May 2019 is to align with the Homecare contracts. Appropriate notice periods will be inserted into the contracts from October 2017.

- 4.2 SIS contracts, when tendered, were for a period of five years in total. In order to align these services to Adult Social Care transformational activity, it is requested that the end date of this arrangement is 31 May 2019, however it is intended that the work will complete by October 2018 and the end of May 2019 be a back stop date in the event of further opportunities that might arise. Extensive discussions have taken place with providers and the feedback generally is that there is potential for significant numbers of service users having to transfer to new providers with the potential of having to transfer again within a short period of time, should the service be re-tendered in line with outcome based care.
- 4.3 The Care Act 2014 provides greater flexibility to delegate tasks to others to carry out on behalf of the Local Authority and this will be considered as part of the Design Phase alongside the greater focus on wellbeing and prevention.
- 4.4 There is currently some duplication in some of the community support services such as Homecare, Housing Related Support and the Supporting Independence Service. In addition, there are some providers that deliver different services to the same individuals at differing hourly rates and provisions. There is a need to break down barriers between these services and focus on competences to create a more effective, integrated workforce. Only by changing how we think of workforce will we meet current staffing challenges and create capacity to deliver better outcomes. Furthermore, there are opportunities to doing things differently in partnership with stakeholders such as the Police and Crime Commissioner, the NHS, Public Health and the District and Borough Councils.
- 4.6 Commissioners have reflected on the recent and ongoing conversations with stakeholders alongside the very significant decisions in relation to identified savings and as a result need to secure service provision to individuals through the continuation of contracts.

5. Corporate Objectives

5.1 Given the freedoms set out in the Care Act 2014 since these contracts started and the Council's Strategy for Adult Social Care, Your, life your well-being, there is now an opportunity to move to greater integration with health services. To achieve this it is desirable to continue these services' contracts to a single end date of 31 May 2019.

5.2 This will help achieve the corporate objectives of:

5.2.1 Strategic Outcome

Older and vulnerable residents are safe and supported with choices to live independently

5.2.2 Supporting Outcomes

- Those with long term conditions are supported to manage their conditions through access to good quality care and support

- People with mental health issues and dementia are assessed and treated earlier and are supported to live well
- Families and carers of vulnerable and older people have access to the advice, information and support they need
- Older and vulnerable residents feel socially included
- More people receive quality care at home avoiding unnecessary admissions to hospital and care homes
- The health and social care system works together to deliver high quality community services
- Residents have greater choice and control over the health and social care services they receive

5.2.3 **Your life, your well-being** - providing the strategic direction to move towards full integration with the NHS by 2020.

6. Risks

- 6.1 The most significant legal risk to the continuation of these contracts is that the Council is likely to be operating outside of the procurement regulations. This is because there is a risk that the continuation of the contracts should have been the subject of competitive tenders. As such the continuation could be open to a range of challenges from providers and service users. Should these challenges be successful, the continuation of the contracts may be set aside or shortened and compensation may be payable to aggrieved parties. Appendix one (exempt) provides further information. Although not obviating the risk entirely, it is believed that this risk may be mitigated through partial reliance on provisions within the procurement regulations, clear communication and sharing more widely of the opportunity to work with the Council and its NHS partners in developing and designing a new approach. This will be very transparent and any market engagement events, due to commence in line with full procurement from October 2017, will be very open to make sure that all questions are answered so the new service delivery and contractual requirements is fully understood.
- 6.2 If, in implementing this decision it becomes apparent that elements of this may need re-phrasing or amending, the Corporate Director will do this in consultation with the Cabinet Member.
- 6.3 Providers state that it is difficult for them to plan and innovate their business with short term arrangements and therefore the intention is to end these arrangements in May 2019 with appropriate clauses inserted into the contract to end arrangements early, where necessary, to support Design and sustainability of the Phase 3 Transformation Programme. Feedback from the sector is that greater and more advanced planning and communication is needed in relation to these contracts and therefore to do anything other than extend the arrangements, whilst working with providers to negotiate the future need for each service would be impossible to maintain any service provision for service users. However, it is fully intended to retender these contracts by October 2018.
- 6.5 Withdrawal of these services would compromise all statutory duties under the Care Act 2014

7. Legal Implications

- 7.1 There are significant inherent legal implications from this approach. Legal advice has been sought which is legally privileged and therefore attached as an exempt appendix to this report.

8. Equalities Impact Assessments

- 8.1 An Equalities Impact Assessment will be completed for the new service design as part of the Transformation Programme. For this arrangement, service users would receive continuity in service provision, pending any planned activity for review.

9. Next Steps

- 9.1 The Cabinet Member for Adult Social Care will be asked to take an Executive Decision to continue service provision on the existing terms and conditions through to 31 May 2019.

10. Recommendation(s)

10.1 The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **ENDORSE** or make a **RECOMMENDATION** to the Cabinet Member on the proposed decision (Attached as Appendix A) to:

- a) **AGREE** to continue service provision on the existing, or varied, terms and conditions through to 31 May 2019 and for other contracted providers where mutual negotiation can be agreed, to award varied interim contracts through to 31 May 2019;
- b) **DELEGATE** authority to the Corporate Director of Social Care, Health and Wellbeing, or other nominated officer, to undertake the necessary actions to implement the decision; and
- c) **AUTHORISE** Officers to commence market engagement in readiness for the full procurement process, where required.

11. Background Documents

Your life, your wellbeing – A Vision and Strategy for Adult Social Care 2016-2021
<http://www.kent.gov.uk/about-the-council/strategies-and-policies/adult-social-care-policies/your-life-your-wellbeing>

NHS Five Year Forward View
<https://www.england.nhs.uk/ourwork/futurenhs/>

Health Overview and Scrutiny Committee Report – 3 March 2017
<https://democracy.kent.gov.uk/mgConvert2PDF.aspx?ID=75535>,

12 Contact details

Report Authors

Christy Holden
Head of Commissioning
03000 415356
Christy.holden@kent.gov.uk

Emma Hanson
Head of Commissioning
03000 415342
Emma.hanson@kent.gov.uk

Lead Director

Mark Lobban
Director of Commissioning
03000 415393
Mark.lobban@kent.gov.uk