

From: Graham Gibbens, Cabinet Member for Adult Social Care

Anu Singh, Corporate Director of Adult Social Care and Health

To: Adult Social Care Cabinet Committee –
29 September 2017

Decision No: 17/00097

Subject: **HEALTH AND SOCIAL CARE IN PRISONS**

Classification: Unrestricted

Past Pathway of Paper: Social Care, Health and Wellbeing Directorate Management Team – 26 July 2017
Strategic Commissioning Board – 7 September 2017

Future Pathway of Paper: Cabinet Member decision

Electoral Division: Prisoners may come from all of Kent's electoral divisions. Prison establishments are situated within Maidstone North East, Maidstone Rural East and Sheppey electoral divisions.

Summary: The Care Act 2014 brought a new statutory duty for the Council to meet eligible care and support needs for people in prison establishments. This need is currently being met via a call-off contract with NHS England's provider of primary health care in prisons; support is purchased on a time and task basis. This report proposes an alternative model of purchasing care and support through jointly commissioning an integrated Health and Social Care Service with NHS England.

Recommendations: The Adult Social Care Cabinet Committee is asked to **NOTE** the funding arrangements for social care delivery in prisons, **COMMENT** on the proposed commissioning approach for social care delivery in prisons in Kent and **CONSIDER** and **ENDORSE**, or make a **RECOMMENDATION** to the Cabinet Member for Adult Social Care on the proposed decision (attached as Appendix A) to:

- a) **JOINTLY COMMISSION** an integrated Health and Social Care Service with NHS England; and
- b) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health, or other nominated officer, to undertake the necessary actions to implement the decision.

1. Introduction

1.1 Prior to the implementation of the Care Act in 2014 social care in prisons was provided by the NHS without involvement from Local Authorities.

- 1.2 The Care Act requires Local Authorities to assess and meet the needs of persons within prisons eligible to receive care and support.
- 1.3 Kent's prisons are located in two districts, Swale and Maidstone; with activity rates higher in the Sheppey cluster prisons; in Maidstone prisons social care provision has not yet been required. This is due to way the prison estate is used and the type of the prisoners who reside in each establishment.
- 1.4 Since 2014, KCC has collaborated with NHS England to utilise their existing contract for the delivery of health services in prisons, to provide social care support. We have done this via a call-off contract with the incumbent provider of NHS Primary Health Care.
- 1.5 In Kent, prison Health Care Services are delivered by:
- IC24 in the Sheppey prison Cluster and
 - Oxleas in the Maidstone and East Sutton Park prisons
 - Drug and Alcohol Services and Mental Health Support are commissioned separately by Public Health England and NHS England respectively and are outside the scope of this report.
- 1.6 The table below shows the prison estate and the number of current social care recipients compared with the prison population.

| Prison Name | Category/Description | Prison Population | Social Care Recipients | Governor |
|------------------|----------------------------------|-------------------|------------------------|----------------|
| East Sutton Park | Cat D - Open female prison | 100 | 0 | Robin Eldridge |
| Elmley | Cat B/C – Remand prison | 1252 | 0 | Sara Penington |
| Maidstone | Cat C – Foreign nationals | 600 | 0 | Dave Atkinson |
| Standford Hill | Cat D – Open male prison | 464 | 0 | Jim Padley |
| Swaleside | Cat B – Long Term Male Prisoners | 1112 | 3 | Paul Newton |
| TOTAL | | 3528 | 3 | |

2. The current position

- 2.1 From April 2015 to 18 August 2017 the following numbers of referrals have been received for adult social care assessments:

| Prison | No of Referrals |
|-------------------------|-----------------|
| East Sutton Park | 1 |
| Elmley | 68 |
| Maidstone | 10 |
| Standford Hill | 14 |

| | |
|------------------|------------|
| Swaleside | 50 |
| TOTAL | 143 |

- 2.2 The level of referrals is not thought to be a true representation of demand within prisons. There is evidence to suggest that the level of referrals has been suppressed; recently it became apparent that Prison Governors were unaware of the full extent of social care interventions available and had therefore restricted referrals to those for equipment, despite awareness raising work by social care professionals.
- 2.3 Not all persons referred were eligible to receive on-going social care support, some needed equipment only and others who have received a service have since passed away.
- 2.4 Currently there are three prisoners receiving an ongoing social care package and they are all at Swaleside, most of the current budget is used to meet the complex and high level of need of one prisoner.
- 2.5 The use of prisoners as peer to peer support is being explored as per the September 2016 ADASS Report "Seeing Prisoners as Assets." Other prisoners can be paid to help support others provided they do not conduct regulated activities and can be provided with training to carry out some functions.

3. Budget 2016/17

- 3.1 Government funding enables Local Authorities to implement the Care Act's statutory duties. This money is devolved for interventions that meet the requirements of the Act.
- 3.2 The original budget in 2015/16 was £479,000. This was adjusted down in 2016/17 to £417,000 (due to closure of Dover Immigration Centre & Blantyre House and adjustment for Swaleside population).
- 3.3 The budget allocations for service provision in prisons in 2016/17 were: -

| Budget Type | Annual Cost £ |
|--|------------------|
| Older People & Physically Disabled People Provision of Care | 165,500 |
| Learning Disability Provision of Care | 25,100 |
| Mental Health Provision of Care | 25,000 |
| KCC Staffing/Operational Costs to Administer Provision and Support | 201,900 |
| Total | 417,500 |

4. Commissioning

- 4.1 In 2014 the Council was unable to jointly commission a service with NHS England as their contract was already in place; therefore KCC had to seek alternate routes for securing supply of provision. Dialogue and negotiations

were commenced with the incumbent NHS Primary Health Care Providers and call-off rates for the provision of time and task care were agreed.

4.2 The current call-off contract is costed as follows on a time and task basis:-

| Band | Cost per hour | Cost per 45 mins | Cost per 30 mins |
|--------------------------|---------------|------------------|------------------|
| Band 3 – Unqualified | £18.54 | £13.91 | £9.27 |
| Band 5 - Qualified Nurse | £27.81 | £20.86 | £13.91 |

4.3 Using the current call-off contract, one prisoner cost £210,000 for a year due to the complexity of the situation and their high level of need. Local teams have been working with this prisoner, IC24 and the prison staff to review the care plan and reduce costs, this has been a complicated and drawn out piece of work, but will soon see weekly costs reduce significantly.

4.4 The current model of purchasing care and support via a call-off contract on a time and task basis is not fit for purpose in prisons due to variable volume of care provision, access issues (time taken to enter and leave prisons for security reasons) and the institutional nature of the establishment including periods of lockdown when care cannot be provided. These factors indicate that commissioning a separate service for social care in prisons is not practicable or an attractive proposition for a service provider.

4.5 To oversee the development of social care provision in a prison setting a multi-agency prison steering group has been established. This group is chaired by the Director of Older People/Physical Disability and consists of commissioners, providers and prison staff. Through discussion and agreement at the group it has always been the intention, when the time was right, to consider joint commissioning an integrated prison Health and Social Care Service.

4.6 NHS England has begun the re-tendering for Health Care Services in prisons. The Council has been involved, influencing and helping to shape the process. The NHS has shared their specification with KCC Officers for comment, Officers responded with additions, amendments and questions prior to the publication of the ITT (Invitation to Tender). NHS England is leading on the commissioning and procurement process with KCC involvement, support and advice throughout.

4.7 NHS England cannot have the Council's governance processes impact upon their procurement timeline. In the event that NHS and the Council's governance processes cannot be aligned, NHS England has agreed that KCC can enter into contractual arrangements at a later date. The intention is to ensure synchronicity and for the KCC element of the contract go live with the NHS contract on 1 April 2018.

4.8 The proposed contract term will be three years with a potential two year extension. Based on the combined Older People/Physical Disability and Learning Disability budget allocation for this financial year of £191,000 (see

3.3), a three year term would cost £572,000; the potential full contract term of five years would cost £953,000.

- 4.9 An alternative model is suggested whereby the Council fund the equivalent of two full time Health Care Assistants (HCAs) for seven days per week, which should adequately cover needed social care provision and would cost approximately £80,000 annually including on costs and managerial support. Should social care need rise above that which can be delivered within this resource, the additional costs would need to be met by the Council. Activity levels would be set in a Section 75 agreement and monitored closely by KCC officers.
- 4.10 The Council has provided questions for the tender exercise and will be evaluating these. Payment mechanisms, contract monitoring and review responsibilities are being agreed and addressed by KCC and NHS England. Once agreed all terms and conditions will then be contractualised.
- 4.11 The Council's Procurement Team has advised that a Section 75 should be used as an agreement with NHS England as the contracting authority. Therefore, a Section 75 agreement will be drawn up to underpin the contract, with NHS England as the contracting authority for Health and Social Care in prisons.

5. Timescales

5.1 NHS England's procurement timescales are as follows:-

- The tender process to be launched by 24 July 2017
- Evaluations late September/October 2017
- Contract sign off November 2017
- Contract award Mid December 2017
- Contract start 1 April 2018

6. Financial Implications

- 6.1 The proposed contract will be for three years, with a potential two year extension. The potential cost of the full contract term of five years is £953k.
- 6.2 The proposed co-commissioning arrangement via a Section 75 agreement would utilise an alternative model to fund two full time Health Care Assistants at an annual cost to the authority of £80k per annum.

7. Legal Implications:

- 7.1 An existing Section 75 agreement has been adapted and the contents agreed with NHS England, however legal advice will be necessary to ensure the agreement is correct and the interests of the authority are protected.

8. Equality Implications

8.1 An Equality Impact Assessment will be necessary and will be undertaken by NHS England.

9. Conclusions

9.1 Three factors indicate that there will be growing demand for social care support in prisons:

1. Changing profile of prisons in Kent
2. An ageing prison population
3. Prison governors/staff becoming more aware and familiar with the support available through social care

9.2 It is anticipated that more referrals will be made and more care and support will be required, commissioning an integrated service will allow for the service to grow to meet assessed need.

9.3 This is an opportune time to work with NHS England to jointly commission an Integrated Health and Social Care Service.

9.4 Funding salaried generic staff rather than paying in time and task method will realise significant savings, improve recruitment/retention and improving quality and continuity of service.

10. Recommendations

10.1 Recommendations: The Adult Social Care Cabinet Committee is asked to **NOTE** the funding arrangements for social care delivery in prisons and **COMMENT** on proposed commissioning approach for social care delivery in prisons in Kent and **CONSIDER** and **ENDORSE**, or make a **RECOMMENDATION** to the Cabinet Member for Adult Social Care on the proposed decision (attached as Appendix A) to:

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11. Background Documents

None

12. Report Author

Sarah Peacock
03000 410664
Commissioning Officer
Sarah.peacock@kent.gov.uk

Lead Officer

Melanie Anthony
Commissioning and Development Manager
03000 417208
melanie.anthony@kent.gov.uk

Lead Director

Vincent Godfrey
Strategic Commissioner
03000 419045
Vincent.godfrey@kent.gov.uk