

# KENT COUNTY COUNCIL – RECORD OF DECISION

**DECISION TAKEN BY:**

Clair Bell  
Cabinet Member for  
Adult Social Care and Public Health

**DECISION NO:**

20/00030

**For publication**

**Key Decision:** Affects more than 2 Electoral Divisions and expenditure of more than £1m

**Subject: CONTRACT AWARD FOR RESIDENTIAL CARE FOR PEOPLE WITH LEARNING DISABILITY, PHYSICAL DISABILITY AND MENTAL HEALTH NEEDS**

**Decision:** As Cabinet Member for Adult Social Care and Public Health I agree to:

- a) **AWARD** contracts to provide residential care for people with a learning disability, people with a physical disability and people with mental health needs to the successful bidders as identified following a procurement process and detailed in exempt appendix A; and
- b) **DELEGATE** authority to the Corporate Director of 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.

**Reason(s) for decision:** Residential Care contracts for People with a Learning Disability and People with a Physical Disability were last let in 2002 while contracts for People with Mental Health Needs were last let in 2004. With these contracts last competitively tendered 16-18 years ago, most placements are linked to historic Terms and Conditions, which do not reflect the Council's current practice. The need to regularise this is high and the current pricing of placements requires stabilising.

**Financial Implications:** In-depth detailed work carried out by the council's Strategic Commissioning and Analytics and Finance Teams at the pre-procurement stage identified a potential cost of £3.2m. The work also considered the council's approach to Sleep-in Payments in light of the market's varied interpretation of the original HM Revenue and Customs (HMRC) Guidance and the pending further Court Appeal granted by the Supreme Court, with the continued uncertainty around the Sleep-in Payments and the potential pay liabilities it was proposed that the council changes Sleep-in Payments from the current customary fixed payment to an hourly amount, set at the National Living Wage (NLW) rate. The estimated financial impact to implement this change to sleep-in payments is £1.2m per annum.

Table 2 shows the estimated combined cost to procure new contracts.

**Table 2: Estimated cost pressure pre- procurement stage**

Summary	Maximum Potential Increase
Financial analysis	£3.2m
Change to Sleep-in	£1.2m
Total	£4.4m

Following the procurement exercise, further work was undertaken and identified the estimated full

year cost of the new contracts as being £5.7m. See Table 3 for further detail.

**Table:3 . Estimated cost pressure post procurement, start date June 2020.**

ALL	Full Year £000's	2020-21 Part Year £000's
Financial Increase from annual price increase April 2020	£4m	£4m
Additional Increase resulting from tendered contracts -Full Year	£514k	
From 15/06/2020		£415k
Increased cost following the tender process	<b>£4.6m</b>	£4.5m
Additional Contingency identified by Finance - Full year	<b>£1.1m</b>	
From 15/06/2020		£884k
<b>Total Potential Cost Requirement</b>	<b>£5.7m</b>	<b>£5.4m</b>

A detailed breakdown of all tendered, non-tendered and out of county placements and costs can be found in Appendix A.

The term of the contract will run for a minimum of 4 years with the option to extend for a further two years plus two years. Based on eight years duration the estimated lifetime value of the contract is £45.6m.

**Legal Implications:** The Strategic Commissioning Division enlisted the support of Legal Services through the development of the contract specification and Terms and Conditions, although the standard Care Services Terms and Conditions will be used. There will need to be resource allocated at the end point contract award for contracts to be signed and sealed. The new contracts will be taken forward in a way which ensures the Council's statutory responsibilities are discharged accordingly.

**Equality Implications:** The Equality Impact Assessment has been updated as part of the project plan when changes have occurred and have been fully considered. All the significant changes will be approached in a manner that respect and adhere to the Council's equalities responsibilities. All appropriate advice will be sought from the Strategy, Policy, Relationships and Corporate Assurance Division.

**Data Protection Impact Assessment Implications:** A Data Protection Impact Assessment has also been developed and will be updated as the work to deliver the new contracts is progressed

**Cabinet Committee recommendations and other consultation:** The decision and recommendation report were shared with Members of the Adult Social Care Cabinet Committee, prior to the decision being taken.

Market and stakeholder engagement was undertaken to gather views around shaping the new contracts and how services could best be managed in the future. Engagement included a market event in August 2018; a Provider Workshop in July 2019; a further engaged event in September 2019; and attendance at Trade Association events, where the Council outlined its intentions for the new services, the project timeline and the procurement process. A Working Group was also set up with the relevant representatives.

**Any alternatives considered:**

Other options, including not following this course of action were considered, however with these contracts last competitively tendered 16-18 years ago, most placements are linked to historic Terms and Conditions, which do not reflect the Council's current practice. The need to regularise this is high and the current pricing of placements requires stabilising

**Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:** None

5 June 2020

Clair Bell