

CABINET	AGENDA ITEM No. 5
4 DECEMBER 2023	PUBLIC REPORT

Report of:	Stephen Taylor Executive Director of Adult Social Care & Commissioning	
Cabinet Member(s) responsible:	Councillor Saqib Farooq Cabinet Member for Adults Services and Public Health	
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EXTENSION OF THE LEARNING DISABILITY DAY OPPORTUNITIES CONTRACTS IN PETERBOROUGH

RECOMMENDATIONS	
FROM: Cabinet	Deadline date: 5 th Dec 2023
<p>It is recommended that Cabinet:</p> <p>Approve an extension to the following Agreements totalling £1,720,563, relating to provision of day opportunities for adults with learning disabilities from the 1st April 2024 until 31st March 2025 for the following Providers:</p> <ul style="list-style-type: none"> • Thera East Anglia (company number 05566295) • THHG Limited trading as Helping Hands Group (company number 07359910) • Sense, the National Deafblind and Rubella Association (company number 01825301) 	

1. ORIGIN OF REPORT

1.1 This report is submitted to Cabinet as this is a decision resulting in expenditure over £500,000 and as outlined on the Council's Forward Plan on 24th October 2023.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to gain Cabinet approval to extend the Contracts for the Provision of Day Opportunities from 1st April 2024 until 31st March 2025 for the following Providers:

- Thera East Anglia
- Sense, the National Deafblind and Rubella Association
- THHG Limited trading as Helping Hands Group

This will ensure the continuation of the Peterborough Learning Disabilities Day Opportunities contracts and allowing the Council to continue their duties under the Care Act 2014.

The original contracts commenced on 1st April 2017, with a duration of three years to 2020 and extended to 31st March 2024 thereafter, with a total value of £12,053,369. The extension of the contracts will bring the total contract value to £13,773,932. These costs are

estimates rather than actual values, as we only pay for service users who are currently using these services and the number of service users may go up or down.

2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.1

To take collective responsibility for the delivery of all strategic Executive functions within the Council's Major Policy and Budget Framework and lead the Council's overall improvement programmes to deliver excellent services.

3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. **BACKGROUND AND KEY ISSUES**

4.1 Day opportunities support many adults with learning disabilities and/or autism across Peterborough. These services also meet statutory need under the Care Act 2014 including promoting wellbeing and they play an important role in early intervention and prevention in reducing or delaying the need for formal care and support. Day opportunities provide activities for people to meet and learn new skills, access training, develop life and workplace skills and gain independence and opportunities to socialise. Activities can include:

- Cooking
- Gardening
- Arts and crafts
- Drama
- Trips out to do group activities
- Music
- Physiotherapy
- Sports
- Sensory room sessions
- Work experience

For example, Prita (anonymised) is a 21-year woman with a mild learning disability (LD) and autistic spectrum disorder (ASD) who lives with her parents. She accesses support at Thera Trust Meeting Place in Peterborough twice a week where she learns life skills such as using public transport and job searches, as well as spending time in enjoyable activities such as gardening which could also provide skills for employment. This will allow her the opportunity to access paid employment.

4.2 Peterborough has separate Agreements in place to manage the commissioning of a range of day opportunities, across grants, contract agreements and direct payments. Six providers successfully applied to deliver LD day opportunities. Currently three of these providers are active – Thera East Anglia (Thera), The Helping Hands Group and Sense, National Deafblind and Rubella Association (Sense). In September 2023, 93 people were accessing these services – 21 at Sense, 43 at The Helping Hands Group and 29 at Thera. It is difficult to put a maximum figure on how many people these providers could support for the proposed extension period of 1st April 2024 to 31st March 2025, as service users attend from half a day a week up to five full days a week. The providers support people with standard and more complex needs and offer an alternative to City College Peterborough as the main LD day provider in Peterborough.

4.3 The Agreements for the Provision of Day Opportunities commenced on 1st April 2017 for a period of 3 years, up to 31 March 2020. A further contract extension was agreed until 31st March 2024 to align to the timelines of the Adults Positive Challenge Programme and due to lack of capacity to reprocure during COVID.

- 4.4 The Commissioning directorate was previously shared across Cambridgeshire County Council and Peterborough City Council. However, there has been a transition to two separate services as of 1st August 2023. The adults commissioning and contracts functions have also merged in Peterborough City Council, leading to changes in officer roles and responsibilities. Due to these changes and the time required to recruit to new roles, a risk has been identified that the new team will be highly unlikely to have the resource to complete a re-procurement in time for the end of the current contracts.
- 4.5 There is much that is known about day opportunities provision in Peterborough but there needs to be significant work undertaken to support the transformation of the service delivery, commissioning mechanisms as well as outcomes and impacts achieved by individuals accessing these services.
- 4.6 This Cabinet Report is requesting approval for the three Agreements to be extended until 31st March 2025 (an extension of 12 months) to ensure continuity for service users which enables compliance with Care Act duties while allowing the new commissioning team sufficient resource for future commissioning activity. The extension period has a value of £1,720,563.

5. CONSULTATION

- 5.1 A significant amount of detailed work has been undertaken to gather provider and service user perspectives on the vision for day services, barriers to achieving the vision and what the Local Authority can do to support day services.
- 5.2 The Adults Positive Challenge Day Opportunities workstream carried out an extensive discovery phase, including service mapping and gathering data from day service providers. A comprehensive survey of providers was undertaken to gather information that was previously unknown about this provider market, including areas such as:
- Percentage of financial contribution from the Council to operational budgets;
 - Level of need and complexity services are managing;
 - Services carrying out regulated activity;
 - Provider perspective on the vision for day services, barriers to achieving the vision and what the Local Authority can do to support day services.

This was complemented by engagement with operational teams within the local authority, other local authorities, and Partnership Boards.

- 5.3 The Coronavirus pandemic disrupted the delivery of day opportunities as they closed for periods of time in line with Government and Public Health advice. Significant resources focused on the requirements needed to safely re-open day opportunities provision to service users. Although much of the re-commissioning work planned over this period was not able to be delivered due to the focus on the pandemic, a number of key developments were undertaken:
- Increased engagement with day opportunities providers with the introduction of a regular monthly forum for OP and LD providers;
 - Service User survey about their use of day services and the alternative support required whilst services were closed;
 - Improved level of information provided to the Councils in relation to the support offered and numbers of people attending day services.
- 5.4 In 2023, a “what a good day opportunity looks like” document was created using input and feedback from the Learning Disability Partnership Board, carers surveys, providers, 1-1 interviews, Speak Out Council, Enabling Independence, user participation groups, social care and community staff and national data from SCIE.
- 5.5 The extension will enable a full contractual review to be carried out building on the information gathered to date. The outcome will ensure strategic development of future

services and aligning to carers strategy outcomes and other commissioning work whilst ensuring local and County wide market development occurs.

6. ANTICIPATED OUTCOMES OR IMPACT

6.1 The extension period will allow time for significant work to be undertaken to support the transformation of the service delivery, commissioning mechanisms, and outcomes and impacts achieved by individuals accessing these services. The work to be undertaken includes:

- A comprehensive programme of engagement and co-production to define the overall vision for the delivery of day opportunities;
- Prototyping of service interventions, models, and measurable impacts across all cohorts;
- Detailed analysis of day opportunities that service users are currently choosing to purchase via direct payments and any gaps in our current arranged provision offer;
- Embedding and reviewing revised monitoring information to inform future specifications and opportunities for transformation;
- Ensuring the LD Vision outcomes are embedded in the delivery of day opportunities and link to priorities such as employment;
- Determining the most appropriate commissioning options across all provider markets.

6.2 The work will produce some clear benefits for the transformation of day opportunities. It will enable the Council to move services towards meeting both current social care needs but also a more clearly defined preventative agenda to support a demand management approach for Adult Social Care.

6.3 The benefits of this programme of work will be realised through the following outcomes:

- Clearly defined preventative and social care offer delivered through a process of co-production and linked with Children's and Young People's and Education services;
- Conducting a successful commissioning exercise to procure services which will meet our defined requirements;
- Scoping potential for savings or efficiencies through better understanding of the market and our requirements;
- Ensuring there are appropriate contractual arrangements in place to govern the services and to monitor outcomes and impact;
- Increased understanding of day opportunities demand, capacity and service requirements;
- Enabling service users to access a range of day opportunities depending on their outcomes, hobbies or interests.

7. REASON FOR THE RECOMMENDATION

7.1 The reason for the recommendation is to ensure there is sufficient time to review day opportunities outcomes and co-produce a new model of service delivery with service users and allow the Council to continue to fulfil its duties under the Care Act 2014 without a break in service provision. This will also allow for a compliant procurement process to be conducted in accordance with both local contract rules and UK Legislated Public Contract Rules.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1

- Do Nothing - The contracts will lapse and if services continue to be received, they will be on implied terms, which increases the contractual and reputational risk to the Council and puts service users at risk through lack of protection under implied terms.

- Contract Termination - Ending the contracts and not completing a compliant procurement process and therefore having nothing in place. This could mean the Council is in breach of its duties under the Care Act 2014: to meet people's assessed needs, promote wellbeing and reduce or delay the need for more intensive support such as respite and residential care.
- Tender the Requirement - To seek to reprocure the requirements at this time would mean that meaningful engagement and co-production could not be undertaken due to the time constraints. The Council may not be commissioning services that best meet the needs of individuals or explore efficient models of delivery. Therefore, the re-procurement should be delayed until the completion of the review process to ensure that the future contractual provision is strategically aligned to the desired outcomes.

8.2 Over 93 people use day services across Peterborough and not providing services would leave people with unmet assessed needs under the Care Act 2014.

9. IMPLICATIONS

Financial Implications

9.1 Total value for 12 months of £1,720,563. This has been allocated and budgeted for in 2024/25 and there is no pressure as a result of this extension.

Sense, Thera and The Helping Hands Group are all funded from the ISP budget and are therefore spot purchased. This would mitigate the risks around funding through a block contract whereby full payment is required whether the service is delivered or not. The funding would be flexible to accommodate demand and offer up potential efficiencies when services are not delivered.

Current cost is broken down as follows: Sense £443,518.22 per year, THHG £693,914.40 per year and Thera £583,130.47 per year. A service user is free to choose the provider, the Council only pays for the services people actually use and, therefore, these numbers may go up and down for each Provider.

The option to extend under existing terms provides value for money for the Council as the 2023/24 rate is being continued. There is a risk that if we were to go to market now, we would have to award the services at a much-increased rate; previous tenders have demonstrated the market is unpredictable due to the ongoing cost of living crisis and rises in inflation – resulting in suppliers inflating their bids to cover fluctuating costs.

Legal Implications

9.2 Section 5 of the Care Act 2014 places a general duty on the Council to promote the efficient and effective diversity and quality in the provision of services. The Council must have regard to section 5(2) Care Act 2014 and, in particular, the need to ensure that the Council is aware of the current and likely future demand for services and to consider how providers might meet that demand, the importance of ensuring the sustainability of the market and have regard to the importance of promoting the well-being of adults in its area with care and support.

The Council must have regard to this general duty in its decision-making on this issue and by extending the Agreements in accordance with his report, the Council can ensure it is meeting its duty under the Care Act.

Where the Council awards a contract (either via an extension or a new contract) it must also have regard to its duty under the Public Contract Regulations 2015, i.e. to procure for services lawfully. The EU threshold for this is £663,450. The Council has been advised that the procurement regime applies. However, unless the Council extends the existing contract or enters into a new contract for the services, in the interim period, pending a viable

procurement exercise, there will be no contract(s) in place to deliver the essential services and meet its obligations under the Care Act.

The extension will be classed as a variation to the original contracts because the extension period has not been provided in the original contract Term. However, this extension period is in accordance with Regulation 72(1)(e) of the Public Contract Regulations 2015 because the modifications, are not substantial. The extension period is delivery of the same services that were originally tendered, and the terms and conditions will be unaltered; accordingly, the variation does **not**

(a) render the contracts materially different in character from the one initially concluded; or
(b) introduce new conditions which, had they been part of the initial procurement procedure, would have—

(i) allowed for the admission of other candidates than those initially selected,

(ii) allowed for the acceptance of a tender other than that originally accepted, or

(iii) attracted additional participants in the procurement procedure; or

(c) change the economic balance of the contracts in favour of the contractors in a manner which was not provided for in the initial contracts;

(d) extends the scope of the contracts; and

(e) award the contract to new contractors.

Equalities Implications

- 9.3 An equality impact assessment has been undertaken to ensure that the service provided to people with Learning Disabilities is compliant with the Care Act 2014.

Carbon Impact Assessment

- 9.4 Neutral Impact - Extending the LD day opportunities contracts in Peterborough will have a neutral impact on carbon emissions and environment. This is a continuation of services so the impact should remain the same.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

What a Good Day Opportunity Looks Like, attached to the report as an appendix.

11. APPENDICES

- 11.1 Appendix 1 - What a Good Day Opportunity Looks Like