

Corporate & Resources Committee

13 July 2021

Voluntary and Community Sector Extensions

Report by Sarah Ireland, Executive Director of Corporate and Communities

Relevant Portfolio Holders: Cllr Andreas Kirsch, Portfolio Holder for Finance and Commissioning (lead); Cllr Tim Cobbett, Portfolio Holder for Communities and Engagement; Cllr Diane White, Portfolio Holder for Children's Services including Education; Cllr Sam Foulder-Hughes and Cllr Margaret Thompson, Portfolio Holders for Adult Social Care and Public Health

Purpose of Report

To seek approval to extend and vary the existing arrangements and contracts with voluntary and community sector (VCS) organisations for a further period to enable coproduction of a new VCS commissioning model. These recommendations will support the Council to work in partnership with the sector to redesign services to meet the transformation ambitions of the Council, and new and emerging needs of the community arising as a result of the Covid pandemic and recovery.

Recommendation(s)

The Committee is asked to RESOLVE that:

The extensions to arrangements with the voluntary and community sector to March 2023, as detailed in the **Exempt Annex**, be approved.

Benefits to the Community:

The Voluntary and Community Sector (VCS) play a vital role in Kingston supporting some of the borough's most vulnerable residents. The sector has played a crucial role in the Kingston Covid response and continued funding of local VCS organisations is an important part of ensuring the Council has an effective approach to early help and prevention. The proposals provide additional time to work together to reflect on learning from the Covid response, the priorities of the Communities Taskforce, the emerging recommendations from Seizing the Moment, and sector best practice.

Key Points

- A. Since 2019, the Council has been working with its partners in the Voluntary and Community sector to consider lessons learned from previous commissioning of the sector and to identify the best approach for a new VCS commissioning model when

existing arrangements expire. The learning from this engagement has been used to develop the Council's future approach but was paused during Covid-19.

- B. The intention is that a Kingston Together Fund be established to ensure investment in the sector is sustained and to improve partnership working between the Council, the VCS and partners for the benefit of Kingston's most vulnerable residents. The VCS review was identified as a corporate priority and will result in the establishment of a new commissioning framework to be co-designed with the sector.
- C. The expectation was that this would commence in spring 2021 with new arrangements in place by October 2021. However, given the continuing pressures of the Covid-19 pandemic on the Council and its VCS partners, it is prudent to revisit timescales to ensure that both the Council and the sector have the capacity to engage with the recommissioning process.
- D. Considering the ongoing support that the VCS provide to the Council's Covid response, it is critical that these relationships are maintained. The sustainability of the Kingston VCS is vital to the delivery of the services to the most vulnerable in the borough.
- E. The purpose of this report is to seek approval to extend and vary a range of contractual and commissioning agreements with community led services that are in scope of the VCS review, to enable sufficient time to reflect on the emerging needs during Covid-19 response and beyond. This will also ensure a period of stability for the sector who are focusing on delivering an enhanced or alternative service in response to Covid 19 and working proactively with the Council to deliver services to those most vulnerable, including contributing to the 'Kingston Stronger Together' Hub.
- F. The Council proposes to extend arrangements with VCS commissioned services to March 2023 with the expectation that partners work together to develop and transform services to deliver improved outcomes and efficiency during the extension period.

Context

1. In 2019 the Council commenced a review of relationships and commissioning models with the Voluntary and Community Sector. This work was informed by feedback from the sector and engagement with partners to explore new ways of working. The proposals included creating a Kingston Together Fund to bring together commissioning activity with the sector.
2. The work has been disrupted by the impact of the pandemic. Not only have Council officers been otherwise engaged with the pandemic response, but partners in the VCS have also had to work differently, adapt services to reflect changing restrictions and safety requirements, and respond to new and different needs. In order to provide time to co-design a new model for commissioning, in January 2021 the Response and Recovery Committee approved recommendations to extend existing commissioning relationships with the sector. Where there was contractual provision, agreements were extended in line with the available extension option, with the majority extended to March 2022. Where there was no contractual provision, agreements were extended to September 2021.
3. The intention was that in the intervening period, the Council would recommence the work to review its relationship with the sector and establish a new model for commissioning. This would reflect the fact that new ways of working need to take

account of how all partners have worked differently during the Covid response. The enhanced collaborative approach developed between the Council and the voluntary sector in response to the Covid-19 pandemic demonstrated a shared value base and commitment to delivering positive outcomes for vulnerable people in the borough. Furthermore, the pandemic has brought forward a new generation of voluntary and community groups which the Council may wish to work with differently to support the sustainability of a diverse local VCS.

4. Whilst the Council always recognised that the pandemic response would continue over the coming months, it also realises the pressures facing the sector. There is understandably considerable interest from the sector as to their future funding arrangements, especially where extensions expire in September 2021. It is essential that the Council balances the need to facilitate the essential transformation of services, particularly in adult social care where there is an impact on integration with health, with the requirement to develop a co-designed and collaborative approach with the sector.
5. To ensure the commissioning model and priorities are fit for purpose and responsive to future need, the Council also needs to take account of the Seizing the Moment report, the new ways of working across the VCS sector, the emerging findings of the Communities Taskforce, and the challenges and opportunities of the next phase of the Covid response. This needs to happen quickly, being mindful of the financial concerns expressed by some VCS groups. The Council also needs to consider its wider partnerships and joint commissioning arrangements, particularly as it is not the sole or direct funder of several contracts with the VCS.
6. Having reflected on the timescales, the Council considers that it will not be possible to do this work meaningfully within the existing timetable. Accordingly, it is proposed that commissioning arrangements with the VCS are further extended to March 2023.

VCS Services

7. The services delivered by the VCS cover a range of different areas:
 - i. Infrastructure and capacity building for the sector
 - ii. Ubafirmatuibm Advice, Guidance and Advocacy
 - iii. Specialist services, including occupational activities such as day services and employment support and targeted interventions such as carers support and bereavement services
8. Across these services, there is considerable opportunity to transform solutions and services to better meet the needs of Kingston's communities. Covid has highlighted the Health inequalities faced by residents, in particular those living in deprived areas and our BAME communities. As part of the Covid response, additional capacity has been commissioned from the VCS providers in terms of targeted support that has enabled providers to reach hidden groups within Kingston. The work to date has been successful in myth busting around the vaccine and led to increased uptake of the vaccine through translated material being provided and targeted webinars. This positive impact should be harnessed and built upon to ensure services continue to deliver targeted support to hidden groups within Kingston where need can be evidenced.

9. Furthermore, several of the agreements currently in place date back many years and there have been considerable advancements in digital solutions in the intervening period, in some cases accelerated through the pandemic. It is therefore necessary to ensure that these community solutions are delivered in a way that reflects current demands and needs delivered in a financially sustainable way.
10. The adult social care elements of the VCS commissioning include a range of services which are part of the section 75 Better Care Fund agreement with the NHS. This is linked to savings and improvement in outcomes for adult social care in 21/22 and 22/23. In addition, the new White Paper and Place based plan for Kingston will be reliant on the transformation planned between the Council and the NHS to be in place from April 2022.
11. For these reasons, it is recommended that the extension period is used to work with partners to trial new ways of working, explore new solutions and develop new models of delivery. This will not only provide the flexibility the Council and partners will all inevitably need over the next 21 months, but will also enable testing of different approaches to inform the future commissioning priorities.
12. This transformative work will be a condition of contract and service specifications will be updated in partnership with VCS providers to reflect new working practices and emerging needs. Organisations will retain their existing financial envelope, but will be expected to work in partnership with the Council over the next year to develop alternative services and delivery models, including alignment with the integration agenda where this is relevant to the service.

Proposal and Options

13. In order to extend arrangements to March 2023, there are a number of differing considerations, dependent upon any the terms of the current agreement, including any existing extension provision, expiry dates, variation provision and funding requirements. There are a number of contracts where the Council is not the sole or direct funder of a contract and we may need to have a different approach. Additionally, it is not possible or appropriate to extend some contracts further beyond existing expiry dates. In those cases, the Council is working with affected organisations and proposes to put in place new contract arrangements via direct award.
14. Discussions as to the arrangements for some services are ongoing and it would therefore be prejudicial for the details of the Council's proposals to be in the public domain until all matters have been settled with the relevant parties. For this reason the detail of all the proposed extensions is provided in an **Exempt Annex**.
15. The proposed approach will secure the same financial envelope for each organisation to deliver broadly the same outcomes and service type. As detailed above, the Council intends to work with VCS partners to develop and transform services and the proposed approach will provide the flexibility to do so.
16. The Council considered not extending the VCS contracts and either recommissioning or discontinuing services. As set out in this report, it is not

possible to meaningfully recommission within the timescales and given the essential role of the services, it would be undesirable to terminate existing arrangements without alternative provision in place. Accordingly, these options were rejected.

17. A shorter period of extension was considered, but given the ongoing challenges facing the Council and its partners, it was determined that a longer period to co-design a new approach would be preferable. As outlined in paragraphs 11-12, the Council is building in the flexibility to work with partners to test new approaches and further develop the services during the extension period which will provide the appropriate balance of flexibility for transformation whilst providing certainty of funding for the sector.

Timescale

18. Indicative timescales for the extension period and co-design of a new commissioning model are set out below. This is subject to development of a more detailed project plan and work with partners to determine the best approach to co-design.

June 2021	Communicate intentions to the sector
July 2021	Committee decision and extensions enacted, including agreements regarding opportunities to transform and reshape services
September 2021 - December 2021	Develop new VCS Strategy, partnership model, and partnership priorities
December 2021	Approval of new VCS Strategy
January - June 2022	Co-design a new commissioning model. Develop new VCS commissioning infrastructure (e.g. commissioning terms and conditions, grant funding model, grant funding digital solution, grant conditions)
July 2022 - December 2022	Call-off services and award new contracts Agree tapered hardship / transition support packages for any affected organisations (as appropriate)
December 2022 - March 2023	Mobilise new services
April 2023	New services commence Hardship / transition support packages commence

Financial Context

19. The council is operating in an increasingly challenging financial environment. Kingston faced a number of financial challenges in the medium to longer term - even before the COVID-19 outbreak, which has further added to these challenges. The economic and financial consequences of the pandemic, growing demand for services, and limited government grant funding make it difficult to find adequate funds to meet the borough's needs.
20. The future of local government finance faces a significant level of uncertainty. The impact of the Fair Funding Review and a future review of business rates is currently unknown, and the lasting effects of COVID-19 on our residents, local businesses and the Council itself remain uncertain.
21. Despite these challenges the council has a drive and commitment to ensure it is doing the best for residents and communities

Resource Implications

22. The Council has committed to sustaining the current total expenditure with the VCS. This is funded by the relevant service budgets. The total annual value of the agreements in aggregate is £8m. The detailed breakdown by contract is provided in the Exempt Annex.
23. Whilst the Council is building in flexibility to develop new solutions during the extension period, the proposals may impact on the ability for the Council to achieve the totality of transformation savings and outcomes currently planned. This will be reviewed as part of the budget setting process for 22/23.
24. Further benefits will be delivered through the revision of the service requirements and development of outcome based specifications and measurable KPIs. The Council also expects all commissioned services to deliver social value benefits to the local community by increasing investment locally, employing local residents and increasing overall employability and purchase of goods and services locally.
25. The services also deliver added benefits by reducing social isolation, maintaining and increasing independence and capacity to cope and ensure people remain connected to their communities. This will in turn reduce the budget pressures on health and social care.
(To be approved)

Legal Implications

26. The Council is subject to legal requirements to ensure fair competition for all contracts irrespective of value, and is subject to obligations under the Public Contracts Regulations (PCR 2015) and its own Contract Regulations to ensure contracts are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition. Officers are seeking approval to extend the duration of current contracts listed in the **Exempt Annex** to this report to secure continuity of service whilst the Council undertakes a review of the voluntary sector funding focusing on commissioning, assets and

strategy to ensure investment in the sector is sustained and to improve partnership working between the Council, the VCS and partners for the benefit of Kingston's most vulnerable residents. Indeed the main body of the report states that the review and remodelling process as originally planned has been delayed by the COVID -19 pandemic (the onset and implications of which the Council could not have reasonably foreseen or had in its contemplation at the time of awarding the contracts) necessitating extension of the contracts.

27. Under the current Procurement Regulations (PCR 2015), modifications/variations of contracts such as the ones proposed in this report may, unless provided for under Regulation 72 of PCR 2015, trigger a new procurement process.
28. Where contracts have extension provision, under the original authority given to procure the contracts and under the terms of the contracts themselves the proposed extensions are allowable in law and may be further authorised by the Commissioning Governing Board. The Council must follow the requirements for extension set out in the contract and issue extension documents as appropriate.
29. Where there is no further or limited extension provision remaining, the Council may rely on Regulation 72 (1) (e) of PCR 2015 to extend the terms of the contracts because the modifications, irrespective of value, are not substantial. That is to say, the modifications do not change the substance of the services to be delivered or extend their scope or change the economic balance of the contracts in favour of the contractors in a manner which was not provided for in the initial contracts or indeed fall under any of the other provisions set out in Regulation 72 (1)(8).
30. The Council must take note that in spite of the safe haven provided under Regulation 72(1)(e), every modification of contract carries a potential risk of challenge. To mitigate the risk in this particular case, it is imperative that the Council maintains a clear audit trail of the justification for the extensions and the decision-making process and has in place a robust timetable for completing the review and procurement of replacement services to ensure that new contracts are awarded before the end of the extension periods.
31. The Council must ensure that the modifications are evidenced in writing. That is to say, the Council must enter into a written agreement with each of the providers setting out the extensions and any relevant modifications to the existing contracts. These agreements must be signed by the Council and the providers
32. There are some contracts where arrangements will be extended by way of a direct award. These contracts are subject to the Light Touch Regime and are below the threshold of £sx. Accordingly, the Council may award contracts directly, so long as this is in compliance with its own Contract Regulations which require a waiver to Regulation xxx, to be approved by xx

Risk Assessment

33. There are a number of risks associated with the proposal:
 - i. Some contracts are funded by external sources (e.g. CCG, MHCLG) and there is not yet certainty regarding future funding. This will need to be managed on a contract by contract basis.

- ii. Delaying all recommissioning to March 2023 will impact on transformation plans and savings in adult social care, especially where services are essential to the integration agenda. There is the opportunity to build in requirements to test new ways of working as part of the extensions to ensure that transformation plans can progress.
- iii. There is a risk of procurement challenge which is mitigated by the fact that some contracts have permitted extensions built in, others will be varied in line with reg 72 and the remaining arrangements will be put in place by way of a direct award.
- iv. The risk of provider failure due to market conditions has been assessed as a medium risk. The impact of Covid-19 and a reduction in income generation for the wider VCS could destabilise some organisations within the sector. This is regularly monitored by the Council and confirmation of additional funding will provide some stability and guaranteed income, whilst also enabling organisations to access alternative funding streams

Equalities Analysis

- 34. The proposal is not considered to have any potential for negative impact on people with protected characteristics as it maintains current provision and funding. As the Council works with partners to develop transformation plans within VCS commissioned services, equality analysis will inform those proposals and an EIA will be completed to consider changes to be delivered through individual services and in aggregate across all services.
- 35. Extensions proposed include support to organisations which provide support to groups with protected characteristics and continued funding for these organisations will have a wider benefit in respect of the Council's obligations under the Public Sector Equality Duty.

Health Implications

- 36. A number of the services form an integral part of the health and social care system in Kingston, in terms of prevention and early intervention and specialist support. Furthermore, they are a key element of the partnership response to Covid.
- 37. Certainty of funding for these services will provide stability for the sector whilst enabling the Council to work with partners to develop services as part of the wider health and social care transformation agenda.

Road Network Implications

- 38. There are no implications arising as a result of the recommendations set out in this report.

Sustainability Implications

39. The Council will continue to work with agencies and partners to support more sustainable delivery models and operational practice, aligned to the Council's climate change and air quality priorities. This includes encouraging staff to work towards sustainable travel such as walking, cycling or use of public transport where appropriate. It will also include development of digital solutions which will reduce the need for travel in some services and also reduce use of printing.

Background papers

None other than those referred to in this report

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