

Forward Plan reference number: FP/114/05/24

Report title: Procurement of a New Multi Provider Framework for Supported Living Care for Adults with Disabilities	
Report to: Cabinet	
Report author: Councillor John Spence, Cabinet Member for Health, Adult Social and Care and ICS Integration	
Date: 28 May 2024	For: Decision
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County Divisions affected: All Essex	

1. Everyone's Essex

- 1.1 Everyone's Essex sets out the strategic aims of health, wellbeing, and independence for all ages. One of the pillars of Everyone's Essex is the Disability Strategy, which sets out what we will do to support people with disabilities to help them live the best life they can. A specific theme of the strategy is 'A Place to Feel at Home'. By establishing a new Supported Living Framework, we will continue to be able to deliver good quality, affordable and progressive supported living services to vulnerable adults with disabilities in a modern and transparent way.
- 1.2 Supported living provides tenancy-based accommodation for adults with disabilities within shared houses or self-contained accommodation in a cluster. The key benefit of supported living compared to more residential style settings is that the adult holds a tenancy in their name, it enables greater independence, and it means that adults live within their communities, rather than separate from them. This approach is in line with the 'Adult Social Care Outcomes Framework' (ASCOF) measures from central government, regarding the number of adults who receive long term support who live in their own home.
- 1.3 The Supported Living Framework represents a drive towards equality, by enabling people to move into their own homes with the right support and by increasing their independence. The proposal in this paper will have a neutral impact on the environment as per the Everyone's Essex environment commitment.
- 1.4 This proposal builds on the successes of the 2021 to 2025 Supported Living Framework Agreement and is intended to ensure access to good quality supported living housing for adults with disabilities that supports their independence and wellbeing and gives adults a place to call home. The Supported Living budget for 2024/25 is approximately £108 million for long term packages.

- 1.5 The Supported Living Framework will work as the care sourcing arrangements for supported living accommodation. It will complement our long-term approach to sourcing suitable accommodation of the type, and in the geographical areas, required. It will allow us to continue to work with providers to develop more supported living as needed and to deliver the market shaping strategy for this area, with a focus on good quality care and support that connects people to their community and meets their ambitions. The Framework will support us to transform and innovate in ways that will benefit the adults in services as we work closely with providers.

2. Recommendations

- 2.1 Agree to procure a new, four year, multi-supplier Supported Living Framework Agreement, using the open procurement procedure, which will be evaluated 100% on quality with the hourly rates being set at a fixed price.
- 2.2 To note that the fixed rates for supported living services under the Supported Living Framework Agreement for 2024/25 will be set at £21.00 per hour, and £23.08 per hour for supported living for adults with enhanced complex needs.
- 2.3 Agree that the Executive Director, Adult Social Care, is authorised to award framework contracts to the successful providers following completion of the procurement exercise.
- 2.4 Agree that the fixed rates on the Supported Living Framework Agreement will be reviewed and uplifted where appropriate on an annual basis in line with the Council's cost of care calculations and will be subject to a separate decision.
- 2.5 Note that the award of call-off contracts under the Supported Living Framework Agreement will be subject to a separate decision taken in accordance with the Council's scheme of delegation.
- 2.6 Agree that the Supported Living Framework Agreement can be re-opened up to twice a year in the circumstances set out in paragraph 3.30 of this report to enable new providers to bid for inclusion on the Framework.
- 2.7 Agree that the Executive Director for Adult social care is authorised to reopen the framework and award any subsequent contracts if there will be no change to the rates.
- 2.8 Agree that the Executive Director, Adult Social Care may direct award a contract for a named scheme to a provider from the Supported Living Framework Agreement for a period up to twelve (12) months should the exceptional circumstances in paragraph 3.34 of this report apply.

3. Summary of Issue

Background

- 3.1 The Council currently supports approximately 1,198 people with disabilities in around 373 shared-house and 78 self-contained Supported Living schemes. The current Framework Agreement contains 137 providers delivering 91% of current placements. The need for these types of services is gradually increasing with demographic population growth. The Council is looking at continuous ways to better support their housing and care needs.
- 3.2 The use of supported living services aligns with the Council's strategy to help people live more independent lives, moving away from traditional residential care settings, focusing on progression, and living in a way that is meaningful and fulfilling for the adults.
- 3.3 With the implementation of the existing Supported Living Framework in 2021, the Council has seen many benefits from this arrangement being:
- consistency of hourly rates paid;
 - set minimum quality criteria for support and accommodation;
 - ability to better monitor need and demand;
 - clear and consistent referral route for adults requiring a supported living service; and
 - good quality care and support.
- 3.4 Adults with disabilities must be able to choose where they live, who provides their support and how it is delivered. Services should be delivered in an enabling way to support adults to live more independently and reduce their reliance on formal support. The new proposed Framework will therefore:
- Continue to help stabilise costs via a set hourly rate (for Supported Living Care as well as an enhanced care rate);
 - Maintain good visibility of the provider market;
 - Implement Key Performance Indicators (KPIs) so that providers' performance can be assessed and managed on a regular basis;
 - Continue to ensure quality of support as providers will have to hold a CQC rating of 'Good' or 'Outstanding', or to have been audited and approved where they receive a 'Requires Improvement' grade to the satisfaction of the Council, in order to be admitted to the Framework; and
 - Improve quality of support and outcomes for adults, as all providers will need to pass the Council's new quality selection criteria.
- 3.5 The Council's Disability Strategy sets out the vision for services for adults with disabilities in Essex based on what people have told the Council is important to them, being:
- A place to call home.
 - Good relationships.

- Staying healthy, safe, and well.
- Being active.

3.6 Supported Living services align to this vision by giving adults a place to call home and security of tenure. It enables them opportunities to build good relationships, both with their carers, people with whom they share accommodation, and people they meet when accessing the wider community. It will afford the adult more money to spend on their own activities to remain active and all adults placed in supported living will be supported to attend their annual health and dental checks. It will support the adults to meet their personal goals and ambitions, including a move to employment if they wish.

Supported Living Background

3.7 Supported living schemes for adults with disabilities are defined by the Council in two ways:

- A cluster of single occupancy units which are grouped together, either within a purpose-built block or within a defined area (such as a street), with an element of shared (core) support for all adults. The Council believes that ideally there would be no more than 14 units clustered together and each single-occupancy unit should have its own bedroom, bathroom/wet room, kitchen, and living/dining area.
- Tenants living in a shared house or bungalow and having their own bedroom, ideally with an en-suite bathroom or wet room but sharing every other part of the property with other tenants. Accommodation should, as a minimum, include a fully equipped kitchen and a communal living/dining area. Group sizes in this type of tenancy would generally be small, normally between 2 and 4 tenants depending on the size of the property and communal areas.

Within these schemes there is usually shared or core support. All properties are tenancy based, with the landlord being separate from the care and support provider and the rent being covered by the adult's Housing Benefit. Only the care and support service is procured by ECC and the adult holds a tenancy agreement with the landlord in their own name.

3.8 Re-commissioning the Supported Living Framework will continue to give the Council a network of assured care and support providers, with access to appropriate accommodation, who are able to meet quality and cost requirements. Any supported living accommodation available on the Framework will have been successful in going through the Council's Accommodation Planning Board onboarding process which will consider and confirm that the appropriate accommodation standards can be met.

Engagement

3.9 **Internal ECC engagement:** Four (4) workshops have been held with Council colleagues from operational teams, Procurement, and Commissioning. During

these sessions, all colleagues were asked to feedback which parts of the Framework were working well and which needed development. Overall, feedback was very positive, with the key structure of the Framework, set hourly rates and quality standards around support and accommodation working well. Areas identified as needing development were: more performance monitoring of services, more joint working between providers and ECC, as well as a simpler mechanism of dealing with providers not working to the Service Specification and in a person-centred way.

3.10 **Adult Voice:** Putting the Adult first is paramount in everything the Council does. The Supported Living Service Specification used for the Framework is being produced with input from a cross representation of adults living in supported living schemes and contains their views on what is important to them and what they like about supported living and their home. Some of the key things adults have told us are:

- *‘I get help with my budget and understanding letters.’*
- *‘I wouldn’t want to live alone.’*
- *‘Staff support me and help me with medication’.*
- *‘I like having my own space and a clean home and garden.’*
- *‘Going shopping and visiting town is important to me.’*
- *‘The people here are all nice and I like to be able to talk to them as and when.’*
- *‘The Service helps me not to get into trouble.’*
- *‘Staff help me with cooking and washing and take me on days out.’*
- *‘I like going on bus trips and train trips.’*

3.11 **Market Engagement:** In May 2023, the Council invited ten supported living providers to individual meetings with Commissioning and Procurement representatives; this included a mix of complex and non-complex providers and small to large companies. The focus of these discussions was to review the existing contract and discuss suggestions for future contracts from a provider’s perspective. The result of these discussions was that supported living providers stated that overall issues with the Framework itself were minimal, but there was a theme for improvements to be made with regard to communication with the market from the Council.

3.12 **Two** virtual pre-tender engagement sessions have recently taken place, the first being Wednesday 20th and the second being Thursday 21st March 2024. There were over 130 providers in attendance during these events. The purpose of these sessions was to provide a commissioning update and information regarding important changes to the contract, to highlight key dates and finally to give instructions on the procurement process itself.

- 3.13 An opportunity has been given to those in attendance to provide feedback, if they wish to do so, at the end of both sessions; they have also been given the option to ask for a one-to-one discussion with colleagues from Commissioning and Procurement to discuss the contents of these events or anything they wish to discuss regarding the future of the Framework. Information shared is then shared with all potential bidders. Feedback and questions have been received since the events took place, which we are currently reviewing.

Procurement

- 3.14 The supported living market in Essex has continued to grow over the term of the current Framework which commenced in March 2021. On average, the Council has made 104 new placements each year into supported living services over the past three years, and this number is trending upwards in line with the Council's strategic direction to place adults in the most independent settings.
- 3.15 The performance of the existing Framework has been reviewed and it has shown excellent coverage of new placements under the contract.
- 3.16 Whilst the Framework has been a success, a review of the procurement options has been undertaken to support the decision-making for the future structure of the contract, to best meet the Council's needs and align with the shape of the market in Essex.
- 3.17 The current market is made up of a mix of large and small organisations, ranging from providers with regional or national coverage down to local level providers that have only one or two provisions. Spend is spread across a large number of providers, and we have active placements with 119 providers in total. We spend in excess of £1m per annum each with twenty-three providers, showing the breadth of provision the Council uses and the high value some of these placements may carry.
- 3.18 Demand is stable in Essex and information is shared with providers to help their development plans. Whilst there is competition in the market, the commercial approach from the Council, and the predictable demand, means providers are able to take informed decisions about their business and develop services aligned to the Council's needs. Providers will frequently propose new developments in Essex, which aids both the improvement of accommodation for the people we support and greater choice and control over where they wish to live and who supports them.
- 3.19 Of the procurement options considered, a framework remains the most appropriate model with respect to the conditions currently in the market and the strategic aims of the Council to grow more independent housing options for adults with disabilities and give them a place to call home. A framework will support the breadth of providers in the market, increasing choice for the adults we support, and will be designed to simplify the development and onboarding of new services from providers with a place on our contract.

- 3.20 Other options considered, such as block contracting or lead provider models, did not fit the market as it is currently structured and there would be limited benefit to the Council or adults we support in narrowing our provision or offering guaranteed funding to providers when the needs of the people we support are so varied, and it could be seen to reduce the choice of where they will live and who supports them.
- 3.21 The proposed call-off mechanism for the new Framework is to allow the adult to have a choice of all available and suitable units. The process would see the specialist accommodation leads (SALs) work in conjunction with social workers to map the adult's needs and wishes and present a list of all vacancies that meet these; the adult would then have the choice to visit as many or as few as they would like and select where they would like to live. The SALs and social worker will have a key role in facilitating the process and in excluding, where appropriate, accommodation that would not meet the adult's needs based on defined criteria.
- 3.22 All placements on the Framework will be made on fixed rates applicable at the time of placement. The rates for 2024/25 are £21.00 for mainstream/non-complex placements, and £23.08 for complex placements. These rates have been set following an extensive 'Cost of Care' exercise with the provider market in 2023 and are in line with those approved by Cabinet in February 2024 for the 2024/25 financial year (FP/004/01/24).
- 3.23 As it is proposed that the Framework will have fixed rates for all new placements, there is no requirement for bids to be assessed against commercial criteria. Instead, all bids will be evaluated on 100% quality. The quality criteria will be made up of minimum standards that the Council requires all providers to meet, with additional criteria imposed on those providers identifying that they wish to take on complex placements. Key areas of quality evaluation will focus on the provider's understanding of supported living and the ethos within the category, alongside case studies for them to detail how they would provide services for adults in different scenarios.
- 3.24 Additionally, providers will be required to have achieved a CQC rating of 'Good' or 'Outstanding' in order to receive any placements through the Framework. Whilst we will not block providers from bidding, any provider successfully awarded a place on the Framework that holds a CQC rating of either 'Requires Improvement' or 'Inadequate' will be suspended from receiving new placements and will be subject to an action plan, which must be completed before the Council will make any Framework placements with them.
- 3.25 Through the life of the Framework, the providers will be required to provide responses to key performance indicators (KPIs) that will allow the Council to review their performance against the terms of the contract and the Council's strategic priorities.
- 3.26 It is proposed that the Framework term is four (4) years from the date of commencement. All placements made through the Framework will continue beyond the end of the Framework and the individual placement agreements will

not be terminated as a result of the Framework ending or the Council moving on to a new commissioning and procurement model.

- 3.27 Procurement of the Framework will be on a two-stage basis, with bidders required to complete the Standard Selection Questionnaire and additional quality questions in stage one. Bidders that are successful through the first stage of the process will be invited to submit responses to the invitation to tender (ITT) at stage two. The ITT will consist of mandatory technical questions for bidders to respond to, and additional technical questions for those bidders looking to deliver services to adults with complex needs. Technical questions will have threshold scores applied, in order to automatically fail providers that do not meet the expected quality.
- 3.28 Bidders will need to provide details on all the accommodation that they are proposing to bring forward to the Framework for the Council to make placements at. All accommodation proposed by bidders for placements made on the Framework will need to meet the standards of the Council's Accommodation Planning Board process, which will ensure the Council places only at high-quality accommodation. New accommodation can be added to the Framework at any time by providers that are on the Framework to continue to meet the Council's needs.
- 3.29 The Framework will be able to be re-opened up to twice a year. Once providers are on the Framework, they will be encouraged to develop new accommodation and can do so at any time, to allow the Council to develop the market and make new placements. This will follow the same Accommodation Planning Board process that is currently used by the Council. The Council will only place at services that have been on-boarded through the Accommodation Planning Board process and brought forward to the Framework for placement by the provider.
- 3.30 A recommendation on the re-opening of the Framework will be proposed by procurement, commissioning, and operational teams. The recommendation will be based on whether there is identified need that is not being met by the current provision on the Framework, existing provision that has not been captured by the Framework, or high levels of interest in the market to join the Framework. A recommendation to open the Framework will be made to the Executive Director for approval in line with recommendation 2.6 of this paper.
- 3.31 Under the Framework, the Council may run a mini-competition process:
- To source a support provider when there is no support provider at a new scheme,
 - Where the existing support provider has continually failed to deliver adequate service to adults at the scheme and a new provider is required,
 - Where the contract of an existing provider at a scheme has expired,
 - To identify suitable supported living accommodation for an adult or a group of adults when no existing options exist for them.

- 3.32 A spot placement will only take place once the call-off process under the Framework has been undertaken and a placement cannot be made, and a Commissioning Manager and a Service Manager have authorised the use of spot purchasing to meet an individual adult's assessed needs.
- 3.33 No guaranteed number of placements will be made through the Framework and the Council will not be bound to utilise only the Framework for placements.
- 3.34 In exceptional circumstances, there may be a direct award to a support provider from the Framework for a named scheme for a period of up to twelve (12) months, to allow time for a new support provider to stabilise the service in terms of quality of service delivery and safety of adult, and during which time a mini-competition will be carried out under the Framework. The relevant quality score at the time of the direct award (made up of their tender quality score, KPI score, and current CQC/PAMMS rating) will be used to determine which provider would be approached first, with the highest scoring provider being approached first and other providers in sequential order of quality scored. The circumstances where a direct award could take place are:
- If there are serious and substantiated safeguarding and quality issues with a support provider, which necessitate a very quick change of provider to ensure adults' wellbeing and safety in a scheme.
 - If a support provider suddenly ends the support which they provide in the scheme with inadequate notice to allow time for a mini-competition to take place.
- 3.35 The procurement timescales for the new Framework are as per the below:

Stage	Start	End
Tender Release	03/06/2024	02/07/2024
Return of Stage 1 Responses	02/07/2024	02/07/2024
Evaluation of Stage 1 Responses	02/07/2024	05/08/2024
Commence Tender Stage 2	05/08/2024	05/08/2024
Return of Stage 2 Responses	03/09/2024	03/09/2024
Evaluation of Stage 2 Responses	04/09/2024	04/11/2024
Contract Preparation	04/11/2024	28/11/2024
Draft of feedback letters to all providers	04/11/2024	18/11/2024
Contract Award	18/11/2024	28/11/2024

4 Links to our Strategic Ambitions

- 4.1 This report links to the following aims in the Essex Vision
- Strengthen communities through participation.
 - Connect us to each other and the world.
- 4.2 Approving the recommendations in this report will have the following impact on the Council's ambition to be net carbon neutral by 2030:
- Supporting vulnerable adults to recycle at home.

- Supporting vulnerable adults to manage their home energy usage in a sustainable way.

4.3 This report links to the following strategic priorities in the Organisational Strategy 'Everyone's Essex':

- A strong, inclusive, and sustainable economy.
- Health wellbeing and independence for all ages.

5 Options

5.1 Option 1 - Do nothing (not recommended)

If no action is taken, then the current Supported Living Framework arrangement will end, and placements will revert to being purchased on a spot basis with a range of hourly rates negotiated at the point of commissioning. This method will incur greater costs to ECC than if a set-rates Framework was used. This will not offer best value and is not sustainable as a long-term solution. The quality of services will also be at risk as providers will not have gone through a tender process and been quality assured.

5.2 Option 2 – procure a Dynamic Purchasing System (not recommended)

The Council could create a Dynamic Purchasing System which allows new entrants to the system at any time across the life of the contract period. This is not recommended due to the requirements for the Council to evaluate each submission for entry within 10 days of receipt. This would not be possible given the number of providers we have in the market and the number seeking to come forward at any time. The evaluation resource required for this contract will be large, and adapting the entry requirements to be simpler is not considered appropriate for such a critical category of spend.

5.3 Option 3 – Procure a new Supported Living Provider Framework (recommended option)

Establishing a new, updated Supported Living Framework will enable the Council to have set costs and quality standards for the provision of this service. Adults with disabilities will continue to be well supported to achieve greater independence and reduce their reliance on formal support. Providers who are accepted onto the Framework will meet the Council's standardised quality standards and application requirements, thus improving outcomes for adults.

This option is recommended because:

- It will continue to enable the Council to purchase supported living care at a set hourly rate.
- Adults with disabilities will have greater choice and control over where they live, who provides their care and how it is delivered.

- Adults with disabilities will be helped to greater independence and reduce their reliance on social care.
- It will ensure that providers who are accepted onto the Framework meet the Council's set quality standards and new service specification, thus improving outcomes for adults.
- Re-opening the Framework up to twice a year will allow new providers who are successful in the application process to join.

6 Issues for Consideration

6.1 Financial implications

- 6.1.1 The budget for 2024/25 includes approximately £108m for long-term supported living care packages. The budget was set based on packages in place at the end of October 2023 (therefore setting the mix of complex and non-complex packages budgeted for) and assumptions around growth and price inflation in both spot placements and those on the Supported Living Framework at that time. This does not include any individual hours paid for by Direct Payments.
- 6.1.2 The providers are to accept the fixed rates per hour based on the cost of care, as determined by the Council with input from the market, for supported living each year. The rates for 2024/25 as per the Medium Term Resource Strategy (MTRS) are £21.00 or £23.08 per hour (depending on the complexities of the adults' needs).
- 6.1.3 There are criteria that can be applied to all supported living packages to identify those who would qualify for the enhanced complex rate of £23.08. Providers are required to apply for an increase where they believe they should be paid at complex rates.
- 6.1.4 The MTRS assumes that the Supported Living Framework and spot arrangements will be maintained at the current proportional split. It also assumes the proportional split between complex and non-complex will remain as is. There is therefore a risk that spend may be higher (or lower) if either of these changes. These risks will be monitored as part of the monthly budgetary control process to ensure that any materialisation is identified in a timely manner, with appropriate mitigations and a budget recovery process put in place if necessary.
- 6.1.5 There is a further risk of not accepting the recommended option to implement a new framework. Without this there will be no contractual fixed rate, leaving providers to set their own prices causing escalating costs. In addition to the financial risk, not implementing a new framework would mean the Council no longer had a quality checked list of providers, could not manage KPI's or contract manage and would not be able to ensure that delivery aligns with the Council's expectations.

6.2. Legal implications

- 6.2.1 These services are subject to the 'light touch' regime in the Public Contracts Regulations 2015. ECC can use one of the main procurement routes, such as the open procedure, for light touch services but is not obliged to.
- 6.2.2 As the services fall within Schedule 3 of the Regulations, a pseudo framework can be used that enables the Council to re-open the framework to new providers and enable existing providers to refresh their pricing. Any pseudo framework must still comply with the general requirements around transparency and treating suppliers equally.
- 6.2.3 The procurement process should be conducted in accordance with the Regulations, and the published documentation.
- 6.2.4 A direct award of a contract is permitted under the Regulations, but the framework agreement must clearly set out how Contracting Authorities are to make the choice between different suppliers for the award of each called off contract. Direct awards can be made under multi-supplier framework arrangements which set out all the terms under which contracts may be called off without further agreement.
- 6.2.5 Regulation 33(8)(a) of the Regulations sets out the criteria that must be met when making a direct award: (1) all the terms governing the provision of the works, services and supplies concerned are set out in the framework agreement; and (2) the objective conditions for determining which of the suppliers on the framework agreement shall perform them are set out in the procurement documents.

7 Equality and Diversity Implications

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
 - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 7.3 The Equalities Comprehensive Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic. The procurement aims to improve choice and information, as well as quality of service for adults with disability.

8 List of Appendices.

Equalities Comprehensive Impact Assessment.

9 List of Background Papers

None.