

**Forward Plan reference number: FP/004/01/24**

<b>Report title:</b> Increase in Fees for Working Age and Older Adults Care and Support Provision	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Councillor John Spence, Cabinet Member for Health, Adult Social Care and ICS Integration	
<b>Date:</b> 27 February 2024	<b>For:</b> Decision
<b>Enquiries to:</b> Nick Presmeg, Executive Director for Adult Social Care	
<b>County Divisions affected:</b> All Essex	

## **1. Everyone's Essex**

- 1.1 Everyone's Essex sets out the strategic aim of health, wellbeing, and independence for all ages. Our ambition is that we help people with care needs to live as independently and safely in their own homes as they can, and to ensure they have the support they need to promote their wellbeing and quality of life.
- 1.2 One way to support this aim is through ensuring we have a sustainable care market in Essex, with a diverse range of high-quality accommodation services that residents can access to meet their care needs.
- 1.3 The Council recognises the critical and valued work that care workers across Essex perform, supporting the most vulnerable people in our society. The Council also recognises the exceptionally challenging economic climate the care market has experienced, as a result of high inflation, increasing interest rates, and high energy costs.
- 1.4 We are committed to doing what we can to increase funding in the care market to ensure that the sector as a whole is sustainable and will continue to meet the needs of the residents of Essex.
- 1.5 While this paper contains recommendations for a series of varied uplifts to the different services we provide, the common theme underpinning all recommendations is alignment to our Market Shaping Strategy and Cost of Care models, taking into account the unique and varied position of each market sector.
- 1.6 The proposals in this paper set out uplifts for care providers that operate supported living, older persons residential and nursing care and extra care settings, and for those that work with working age adults with disabilities and mental health support needs. They put forward proposed approaches for the Integrated Residential and Nursing (IRN) framework, opening and amending the exceptional needs payment process where appropriate to help drive market sustainability alongside uplifts. This paper addresses parts of the care market

that were not covered by the November 2023 Cabinet decision on the Council's Live at Home (LAH) framework. As well as being fully aligned with the commitment in Everyone's Essex around independence, these proposals will support levelling up for many people with care needs in our county and follow previous uplift decisions which taken collectively represent significant investment by the Council in ensuring good quality, sustainable supply of care services.

- 1.7 The proposals in this paper do not create any additional climate impacts, which is consistent with our net zero climate commitments set out in Everyone's Essex.

## **2 Recommendations**

- 2.1 Approve the price uplift approaches set out for each market segment in the table below:

<b>Market</b>	<b>Recommendation:</b>
Adults With Disabilities Supported Living Services	Uplift fees for providers on the Framework by 9.6% to £21ph for non-complex placements and £23.08ph for complex placements, from 31 March 2024.
Adults With Disabilities Residential Services	<p>Uplift fees by a maximum of 6.24% for new and existing placements on the Complex Residential Framework from 1 April 2024</p> <p>Uplift fees by 5.4% for all spot providers who have engaged with the Care Cubed assessment tool. No uplift to be applied until providers have engaged in this assessment process.</p>
Mental Health Accommodation Services Contracts	<p>Uplift fees by 8.46% for all existing and new packages delivered through the Mental Health Accommodation Pathway from 31 March 2024</p> <p>Uplift fees by a maximum of 8.46% for spot and legacy contracted services from 31 March 2024 with no prices to exceed the agreed uplifted rates for comparable services under the new Mental Health Accommodation Pathway.</p>
Mental Health Residential Services	Uplift fees by 5.4% from 31 March 2024 for 'spot' providers who have engaged with the Care Cubed assessment tool. No uplift to be applied unless and until providers have engaged with this process.
Extra Care Services	<p>Uplift fees by 9.6% from 31 March 2024 for all existing care packages for older adults living within extra care accommodation.</p> <p>Give a new maximum rate of £23.04ph and minimum rate of £18.32ph, for the placement of</p>

	adults into Extra Care Schemes with effect from 31 March 2024.
Day Services	Uplift fees by up to 7.12% for all existing placements made by the Council into Day Services within ECC's administrative area from 31 March 2024.
Out of County Placements for all services listed in this table	Increase fees, from 1 April 2024, by an individually agreed amount not exceeding the 'host' authority uplift across all services included within this paper if: (a) the provider requests this and provides supporting evidence; and (b) in the case of Adults With Disabilities and Mental Health residential care, where the provider has completed the Care Cubed toolkit and submitted the results to the Council and the Council is satisfied that this demonstrates value for money.
Older People Residential and Nursing Services	<p>Reopen the IRN Framework to new providers and to allow existing providers on the IRN Framework to vary their price point as set out below:</p> <ul style="list-style-type: none"> <li>a) Uplift each price by 7.38% for existing placements for residential care, with a new minimum rate of £695.36 per week, capped at the new maximum framework rate of £801.34 per week, from 1 April 2024;</li> <li>b) Uplift each price by 7.44% for existing placements for residential care with nursing, with a new minimum rate of £855.74 per week, capped at the new maximum framework rate of £1,084.50 per week, from 1 April 2024.</li> <li>c) IRN Framework placements for residential and nursing made between 1 April 2024 and 31 May 2024 will be made at the Provider's current rate uplifted as in (a) and (b) above, and should the Provider select a new rate as below, transition to the new rate will be on 1 June 2024.</li> <li>d) The new ranking and prices following the re-opening of the Framework will apply to placements made after 1 June 2024.</li> <li>e) Increase all existing IRN placements below the care homes new submitted rate to their new submitted rate from the 1 June 2024.</li> </ul>

	<p>f) Add an additional exceptional needs payment band of £70.00 per week for current and future approved placements via the IRN Framework with effect from 1 June 2024 to form a two-tier approach for enhanced payments including the existing level of £140 per week.</p> <p>g) Agree to increase fees for spot care home placements in homes within the Council's administrative area which are below the new minimum framework rate, to the new minimum framework rate from 1 June 2024.</p> <p>h) Agree that the Director, Adult Social Care is authorised to agree the award of new framework agreements and prices following the re-opening of the IRN Framework Agreement.</p>
Direct Payments	Adjust guide rates from 1 April 2024 - calculated at £16.34ph for Personal Assistants and £23.84ph for Domiciliary Care.
Shared lives	Uplift fees by 4.1% for new and existing placements from 31 March 2024.

**2.2** Note that the financial impact of these recommendations has been calculated using the same assumptions for NLW (9.8%), CPI (3.1%) and RPI (4.1%), the blend once fed through each individual cost of care model gives a different output depending on the proportion of costs relating to each uplift element. The financial impact is expected to be £33m in 2024/25, £1.8m of which is to be drawn down from the Adults Investment Reserve.

**2.3** Agree to draw down £1.8m in 2024/25 and £2.5m in 2025/26 from the Adults Investment Reserve to fund the IRN framework additional recommendations in paragraph 2.1 above.

### **3 Background and Proposal**

**3.1** The Council's strategic ambition is to enable more people to be able to be supported for as long as possible in their own homes, where that is the most appropriate and desired place for them. Investing in and growing a range of accommodation options is an important way in which the Council can support people to live their lives to the fullest.

**3.2** The Council currently secures a range of care options for adults of working age (18-64) and for older people (aged over 65). These include:

1. Domiciliary care services at home
2. Residential and nursing care for older people

3. Supported Living in specific accommodation
  4. Extra Care Housing
  5. Residential care for adults with disabilities and mental health support needs
  6. Shared lives
- 3.3 The Essex Market Shaping Strategy sets out our intention to shape the market between now and 2030, so that we can help develop and grow market solutions and capacity where needed, and to support people to be as independent as possible and to remain in their own homes. This requires access to a range of accommodation and support options.
- 3.4 The strategic direction for accommodation services within Essex is to maximise the use of more independent options such as Supported Living and Extra Care housing. Ensuring sustainable fees within these services will encourage and increase development to meet our strategic aims. Options for those less able to be independent, such as residential care are still required, but their use is targeted towards adults with more complex needs and those who are unable to live independently.
- 3.5 The Council commissions a range of Supported Living Services for Adults with Disabilities (AWD), adults with poor Mental Health (MH), along with specialist Supported to Independence services, Intensive Enablement and Older People (OP) Extra Care services.
- 3.6 The Council also commissions both Residential Services for AWD and MH support, and for Older People (OP) through the Integrated Residential and Nursing (IRN) Framework.
- 3.7 The Council is committed to doing what we can to increase funding in the care market and ensure that the sector as a whole is sustainable. We want to make our contracts more attractive for providers, investing in care and support services, so that we can help grow capacity and enable providers to attract, recruit and retain through improved terms and conditions for their workforce.
- 3.8 The Council recognises the critical and valued work that care workers across Essex perform, supporting the most vulnerable people in our society. The Council also recognises the care market has experienced a challenging economic climate, in the light of high inflation, labour market constraints, and increasing interest rates.
- 3.9 The key drivers that define the uplift awarded by the Council are increases to the National Living Wage (NLW) and increases to general inflation, which is represented within the Consumer Price Index (CPI). The majority of the cost to providers in delivering services comes from staffing and wages, with particular sensitivity to wage increases as a result of care staff often being paid close to the NLW rate.

### **AWD Supported Living**

- 3.10 The Council undertook a cost of care exercise in October 2023 to update the previous model used to calculate the rates. This exercise included engagement with providers that account for more than 40% of the market share in Essex and sought to review both the complex and non-complex rates.
- 3.11 The output of this exercise has confirmed that the cost of care model in use by the Council is appropriate, with very few providers seeking to amend allowances within this for non-complex rates. As a result, the Council will continue to use the model in calculating uplifts for our non-complex rates.
- 3.12 There were, however, amendments proposed by the market to the way the Council calculates the cost of care for complex needs packages. The output of this cost of care exercise identified three elements to be included in a new complex cost of care model covering additional training, additional management oversight, Positive Behaviour Support and specialist support teams, which are unique to providers of complex care to adults with learning disabilities and/or autism. This is reflected in the Complex Rate moving above the previous £1.88 differential compared to non-complex services.

### **AWD Residential**

- 3.13 The majority of AWD Residential packages have historically been placed on a spot contract basis with each fee being agreed and based on the specific care and support needs of the adult, including core costs of the homes. Currently, all placements made into AWD and MH residential services are benchmarked through "Care Cubed", which is an independent tool developed to assist Local Authorities and providers to understand the costs within a residential package. The benchmarks built into Care Cubed are taken from national placement data.
- 3.14 Strategically, the Council intends to use residential care for adults with disabilities where that need is complex and can be best met in a residential setting. Our market shaping strategy is to ensure we have a range of alternative accommodation options that provide a means to support adults with disabilities to be as independent as possible. We will continue to seek to identify those individuals who can be supported outside of these residential settings.
- 3.15 The Council has procured a framework to make placements for adults with complex needs – the Complex Residential Framework – and continues to prioritise placements through this route. The intent is to continue to expand the provision on this framework and to incentivise providers to enter the framework rather than continue to operate on spot placements.
- 3.16 The Council is proposing an increase of 6.24% for AWD Residential fees on packages placed on the Complex Residential Framework, and to increase the core fee rates on the framework for new placements by the same amount.
- 3.17 Increases to spot placements (including those who may present with complex needs) are proposed to be at a lower rate than the complex framework services. We have used two separate models to calculate appropriate uplifts for packages in each category. For the Complex Residential Framework, we have utilised the



data from the actual services on the framework to calculate that staffing ratios are higher than non-complex services and this increases the value of the uplift on these packages. Lower staffing ratios are identified in non-complex services, and this is reflected in the lower increase proposed.

- 3.18 Some packages receiving the lower rate may be for adults with complex needs but who are not on the complex framework. The Council's strategy is to move to commissioning complex packages via our framework only, and this approach is in support of this aim, with the intent that providers are incentivised to access the framework on re-opening in future.
- 3.19 For spot placements, the Council proposes to automatically award the 5.4% increase where providers have been through the Care Cubed process and their packages are within the acceptable benchmarked range. Packages that have not been through this process or where further information is requested, will be subject to further scrutiny by the Council before agreement to increase fees up to the maximum of 5.4%.

### **Mental Health Accommodation Services**

- 3.20 There is a range of different services provided to adults with mental health needs and the Council has recently mobilised contracts for the new Mental Health Accommodation Pathway across Essex. In spite of this, there remain pockets of spot placements where needs dictate or arrangements were required to continue.
- 3.21 Packages commissioned under the Mental Health Accommodation Pathway will be increased by 8.46% based on a blend of increases to the NLW and CPI.
- 3.22 Spot placements and legacy contracts will be increased by a maximum of 8.46%, but will be capped at the rate paid to providers in our Mental Health Accommodation Pathway for comparable services to ensure parity. Packages in excess of this amount will not be increased.

### **Mental Health Residential Services**

- 3.23 The placements for mental health residential services are made on a spot basis with any annual uplifts, if requested by individual providers, being awarded at the discretion of the Council. New placement volumes are low meaning a spot framework approach is more practical than a framework. Placements into mental health residential services are also made and benchmarked through Care Cubed.
- 3.24 For all in-county mental health residential placements, the Council proposes to automatically award a 5.4% increase where providers have been through the Care Cubed process and their packages are within the acceptable benchmarked range. Packages that have not been through this process, or where further information is requested, will be subject to further scrutiny by the Council before agreement to increase fees up to the maximum of 5.4%.

### **Extra Care Services**

- 3.25 Extra Care is specialist housing designed primarily (but not exclusively) for older people. It is similar to sheltered housing but also offers help with personal care, including availability of emergency support 24-7. Residents have their own tenancy and self-contained accommodation.
- 3.26 Care and support packages within Extra Care schemes are placed using a matrix of rates currently ranging from £16.72 to £21.04, selected by the provider and then applied to all personal care and support, delivered by them within that scheme.
- 3.27 The proposal is to increase the existing personal care and support rate by 9.6%, capped at the revised highest matrix rate of £23.04 per hour for all existing packages of care. Any rates currently paid above the £23.04 will not receive an uplift.

### **Out of County Placements**

- 3.28 Care placements can sometimes be made out of county. This could be for a variety of reasons, such as proximity to family or because the complexity of need cannot be met by provision within Essex.
- 3.29 Placements that are outside the county will not receive an automatic increase and consideration of any uplifts will be by individual application. Where an uplift request is received, providers will be asked for additional information to support and justify their request for an increase, which will then be applied to the Care Cubed assessment process to evaluate, and individual increases may be agreed, up to a maximum of the uplift % awarded by the host authority.

### **Older People Residential and Nursing Services**

- 3.30 The Council's strategic ambition is to enable more people to be able to be supported for as long as possible in their own homes, where that is the most appropriate and desired place for them. Some people, however, require more intensive care and support 24 hours a day. When a residential or nursing care home placement is required, it will typically be for people later in life, with complex care needs. Investing in and ensuring the right capacity within the residential and particularly the nursing care market is an important way in which the Council can support people whose needs can only be met in such a setting, to access a good quality care home able to meet their need.
- 3.31 To ensure that a care home placement can be made as simply and cost-effectively as possible, the Council set up the Integrated Residential Nursing Framework (the IRN Framework) on 1 June 2019 to source care in a residential setting for older people and adults with non-complex mental health needs, with or without nursing care.
- 3.32 The IRN Framework contains provision for the Council to re-open the IRN Framework every year via an 'annual preferred supplier ranked list' review



process (the 'review process'). This review process allows existing providers on the IRN Framework to submit revised prices for new placements, should they so wish, and enables new providers to join the IRN Framework.

- 3.33 The proposals to uplift rates and reopen the framework are expected to address inflationary pressures, maintain current IRN Framework placement compliance and assist IRN Framework providers with recruitment and retention. They will also help sustain and improve the percentages of placements in contracted homes, which currently stand at over 80%.
- 3.34 There is a further recommendation to add an additional band to the exceptional needs process. These payments are made in addition to the placement cost for adults who have a high level of complexity requiring the provider to put in place additional planning and support. Recent provider feedback as well as our own analysis, indicated that the volume and complexity of these placements are growing and without adequate reflection in our pricing approach, this would risk difficulties in sourcing care from IRN homes of good quality.

### **Day Opportunities – Excluding ECL LIVE**

- 3.35 Placements into Day Opportunities services are made on a spot basis, following expiry of the previous framework due to low utilisation. Rates are negotiated and agreed at the time of placement, taking into account the existing rate for packages at the service and the prevailing costs incurred by providers in order to deliver.
- 3.36 Day Opportunities is a catch all term for a wide variety of services which seek to engage adults in meaningful activities during the day, and to build relationships with others. Typically, services require a building to act as a base of operations, staffed by support workers with the ratio varying dependent on the needs of the adults in attendance. Some services include transportation for adults, which can be self-delivered by a provider or externally commissioned by the Council.
- 3.37 The Council, in consultation with providers, has calculated that 60% of the cost to providers in this market arises from direct staffing and will be impacted by the increase to the National Living Wage. The remaining 40% of cost is made up of property cost, consumables, and any cost related to the delivery of the activities.
- 3.38 The proposed approach for uplift is to award 7.1% to all placements made by the Council within the Essex Administrative Area. This excludes placements made into services operated by Essex Cares Limited; these services are commissioned through the ECL LIVE contract and are out of scope for uplifts in this paper.
- 3.39 Through the year, work will be carried out to review fees across Day Opportunities services to ensure sustainability in the market. There is a risk that providers may seek fees in excess of the uplift allowed, but this risk will be managed through commercial negotiation processes.

### **Direct Payments**

**3.40** Based on the methodology used for the Cabinet Paper FP/112/05/23, the draft budget for Direct Payments has received an increase of 8.1% in 2024/25 to reflect the changes to NLW and Live at Home rates (to ensure DPs remain in line with commissioned rates in Essex). There is no requirement in this paper to make additional provision for increases in funds, but to acknowledge that the guide rates will be adjusted to reflect the increases to NLW from April 2024 - calculated at £16.34 per hour for Personal Assistants from April 2024 and £23.84 per hour to enable to purchase from Domiciliary Care agencies.

### **Shared Lives**

**3.41** Shared Lives supports eligible adults who need accommodation and support with an approved person/host within the host's home. Currently the Shared Lives service supports 56 long-term hosts, 19 respite hosts and 44 adults within 58 households.

**3.42** The proposed approach for uplift based on RPI is to award 4.1% to all placements, which gives the following rates:

- Low – £327.88
- Medium – £437.22
- High – £480.97

## **4 Links to our Strategic Ambitions**

**4.1** This report links to the following aims in the Essex Vision:

- Enjoy life into old age
- Strengthen communities through participation
- Develop our County sustainably
- Share prosperity with everyone

**4.2** Approving the recommendations in this report will have a neutral impact on the Council's ambition to be net carbon neutral by 2030.

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

- A strong, inclusive and sustainable economy
- Health wellbeing and independence for all ages
- A good place for children and families to grow

## **5 Options**

### **5.1 Do nothing**

This option would see no increase awarded to the market. The advantage of this approach is that it would not increase costs to the Council. The disadvantages

are that not uplifting packages will increase the financial pressure on providers and could result in a higher number of hand-backs of packages which require re-sourcing in a challenging market. The quality of care could decrease as providers cut costs further to ensure they can pay the legally required minimum wages. It would also not align with the national policy expectations and could lead to more spot rather than framework placements, which in turn could lead to increased costs as spot packages are generally more costly than framework.

## **5.2 Award an uplift below the recommended amounts for each market**

This option would provide an increase to the market on current packages, but below the amount that has been calculated and recommended within this paper as being required to meet additional costs in the market in 2024/25. The advantages of this approach are that it would result in a smaller cost to the Council, and any increase will assist the market with financial pressures. The disadvantages of this approach are that failing to uplift to the calculated amount will increase financial pressure on providers, leading to a higher number of hand-backs of packages which require re-sourcing in a challenging market. The quality of care could decrease as providers cut costs further to ensure they can pay the legally required minimum wages. It would also not align with the national policy expectations and could lead to more spot rather than framework placements, which in turn could lead to increased costs as spot packages are generally more costly than framework.

## **5.3 Award an uplift in line with the recommended amounts (recommended)**

This option would provide an increase to the market and current packages, which have been calculated as the minimum required to enable providers to keep pace with financial pressures from inflation and wage increases. The advantages of this option are that it will support the Council's market shaping objectives and would significantly reduce the likelihood of package hand-backs from providers for reasons of financial viability and should allow providers to continue to deliver high quality services. The disadvantage is that it is a more costly option for the Council.

# **6 Issues for Consideration**

## **6.1 Financial implications**

6.1.1 The financial impact of the recommendations in section 2 of this report has been calculated using a blended approach of NLW and CPI increases. The Gross impact is expected to be £33m, which is broken down in Table 3 below.

6.1.2 The cost of the recommendations will be funded through the Adult Social Care Care and Support budgets, where provision has been made, with the exception of the additional IRN framework recommendations the net cost of which will be an estimated £1.8m (increasing to £2.5m in 2025/26) (as shown in table 2) which will be funded from the Adult Investment Reserve (AIR). There is a risk that

package costs increase during 2024/25 at a higher rate than assumed in October 2023 when this information was modelled. If this materialises, any pressure will need to be managed within the overall Adult Social Care budget, including the AIR, and will be monitored as part of budgetary control processes. The Social Care Grant currently sits within the AIR, and the proposed use of this is in keeping with the terms and conditions of the grant.

6.1.3 There are recommendations regarding the Older People IRN services that are in addition to the uplift proposals. They will need to be funded by the AIR as per table 3 below. Tables 1 and 2 below set out the individual cost of each of the three recommendations for 2024/25 and the full year impact.

Table 1

<b>Additional IRN Uplift Option</b>	<b>2024/25 Gross Impact £000</b>
Increase of spot placements within the administrative area of Essex which are below the new minimum framework rate to that rate	369
Increasing all current IRN placements below the care home framework rate up to their chosen point on the Framework	1,090
Additional exceptional needs payment band of £70.00 per week for current and future approved IRN Framework placements	624
<b>Total</b>	<b>2,084</b>

Table 2

**3 Year Impact of IRN Recommendations**

<b>Market</b>	<b>2024/25 £000</b>	<b>2025/26 £000</b>	<b>2026/27 £000</b>
Residential	1,513	2,091	2,132
Nursing	571	663	670
<b>Gross Total</b>	<b>2,084</b>	<b>2,754</b>	<b>2,802</b>
Contributions	241	271	274
<b>Net Total</b>	<b>1,843</b>	<b>2,483</b>	<b>2,528</b>

The phasing shown in table 2 is due to the uplifting of packages for the exceptional needs assessments. The costs set out above are gross - many service users contribute to the cost of their care in full or in part, which will reduce the net financial impact of this decision. This will vary but, based on the current number of full cost clients that would be affected (approximately 60), it would reduce the net cost to the Council by an estimated £241,000 in 2024/25,

reducing the requirement from AIR to £1.8m.

6.1.4 The total financial impact of the recommendations in this decision is set out in Table 3 below.

Table 3

<b>Market Category</b>	<b>Financial cost £000</b>
<b>AWD Supported Living</b>	9,270
<b>AWD Residential</b>	5,790
<b>MH Accommodation Services</b>	444
<b>MH Residential</b>	400
<b>Extra Care</b>	584
<b>Day Services</b>	1,005
<b>OP Residential</b>	7,215
<b>OP Nursing</b>	1,592
<b>Direct Payments</b>	4,527
<b>Shared Lives</b>	116
<b>IRN additional recommendations (Table 1)</b>	2,084
<b>Overall Requirement</b>	<b>33,027</b>

All uplifts have been calculated using the same assumptions for NLW (9.8%), CPI (3.1%) and RPI (4.1%), the blend once fed through each individual cost of care model gives a different output depending on the proportion of costs relating to each uplift element.

The shortfall of £1.8m in 2024/25 and £2.5m in 2025/26 will be met by the AIR, thereafter it will become part of the Adult Social Care base budget and increase the budget gap for 2026/27, mitigations to this increase will be considered as part of the Medium Term Resource Strategy and budget setting at this point.

6.1.5 There is a risk associated with this decision:

- £3.2m IRN Framework - While many IRN Framework providers are already placed at the highest available price, there is a possibility that existing IRN Framework providers may choose to increase from their current point on the pricing matrix. If all existing IRN Framework providers choose the maximum possible rate for their locality, and there is no compensating reduction in spot market rates, this could result in an additional annual pressure of £3.2m by 2026/27.

6.1.6 The above risk will be monitored as part of the monthly budgetary control process to ensure that any materialisation is identified in a timely way, with appropriate mitigations and a budget recovery process put in place if necessary.

There is sufficient balance in the Adults Risk Reserve should the above risk come to fruition at the maximum value.

## **6.2 Legal implications**

### **IRN Framework Agreement**

6.2.1 The IRN Framework Agreement provides that the Council will open the review process annually, on or around the anniversary of the commencement date of the IRN Framework Agreement. Whilst the IRN Framework Agreement does not expressly state that the Council is able to amend the pricing matrices, given that the IRN Framework will be open to new entrants to bid, no one bidder/provider is given a competitive advantage over another. The Annual Review Process will need to give new providers the same length of time to respond to the invitation to tender as was afforded to those bidding in the original tender process, to ensure consistency, transparency and equal treatment.

6.2.2 During the Annual Review Process, providers have the opportunity to amend their pricing from the amended pricing matrix. The newly selected price is then scored in accordance with the published criteria. The ranked list for placements is then updated based on the new scores.

6.2.3 The proposals set out in this report will require a variation to the IRN Framework to increase the weekly rates and permit the uplift to existing placements made via the IRN Framework and to add a new exceptional needs payments charge band. Any change to the rates in the IRN Framework Agreement must comply with regulation 72 of the Public Contract Regulations 2015 and be carried out using the change control mechanism in the Framework Agreement.

6.2.4 The increase in rates on contracts for existing placements would be a modification to those contracts during their term. The Council is able to modify the contract where regulation 72 of the Public Contracts Regulations 2015 permits. This will need to be considered on an individual contract basis before such uplift is agreed.

### **Other Contracts**

6.2.5 The other contracts contain provision for ECC to give discretionary increases to providers. The price uplifts for these contracts would be lawful.

6.2.6 The Council needs to assure itself that these payments represent good value for public money in accordance with its best value duty under part 1 of the Local Government Act 1999.

6.2.7 The relevant contractual process in each contract should be followed when awarding uplifts.



## **7 Equality and Diversity Considerations**

- 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 equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **8 List of Appendices**

Equality Impact Assessment

## **9 List of Background Documents**

None