

Forward Plan reference number: FP/297/02/22

Report title: <i>Uplift Proposal for AWD Residential, Mental Health Accommodation and Extra Care Services</i>	
Report to: Councillor John Spence, Cabinet Member for Adult Health and Social Care	
Report author: Nick Presmeg, Executive Director of Adult Social Care	
Date: 7 March 2022	For: Decision
Enquiries to: Steve Ede, Head of Procurement	
County Divisions affected: <i>All Essex</i>	

1. Everyone's Essex

- 1.1 The Council's strategic plan, Everyone's Essex, provides 20 commitments divided into the areas of economy, environment, health, and family. The payment of sustainable fees to social care providers aligns to many of these commitments, including (but not necessarily limited to):

Future growth and investment by allowing social care providers, many of whom are local businesses, to grow and develop through fair and sustainable fees being paid.

Levelling up the economy by increasing wages paid to workers within social care settings and allowing providers to promote the career path and develop their staff.

Promoting independence by ensuring a diverse and sustainable social care market allowing people to have a wider choice of high-quality social care services.

2 Recommendations

- 2.1 Agree to uplift existing packages within Adults with Disabilities (AWD) residential services, including adults funded under learning disabilities and physical disabilities budgets, by 6.34% where they meet the criteria detailed within this paper, and out-of-County packages in line with host authority uplifts.
- 2.2 Agree to uplift existing packages within Mental Health (MH) residential, including all adults funded under mental health budgets, by 6.34%, and out-of-County packages in line with host authority uplifts.
- 2.3 Agree to uplift Supported to Independence, and Intensive Enablement Plus services purchased on a spot basis by 6.2%.
- 2.4 Agree to uplift existing packages within Older People (OP) Extra Care Schemes by 6.2%.

- 2.5 Agree to uplift existing Peace of Mind rates paid for Older People placements within Extra Care Schemes by 6.2%
- 2.6 Agree to amend the pricing matrices, as detailed in Appendix A, used for the placement of Older People into Extra Care Schemes, with effect from 3 April 2022.

3 Background and Proposal

- 3.1 Essex County Council (ECC) currently spends an estimated £83m per annum on AWD Residential services, a further £8m in MH Residential and £4m on Extra Care services.
- 3.2 It is proposed to uplift the sums paid to providers for existing AWD, MH Residential, Supported to Independence, Intensive Enablement and OP packages. Providers of these services are facing significant and continuing issues caused by inflationary pressures within these markets, the ongoing effects of the Covid-19 pandemic, and difficulties in recruitment and retention of staff within the care sector generally.
- 3.3 Central Government has confirmed that the National Minimum Wage will be increased to £9.50 from April 2022, which is a 6.6% increase from current levels. This has a significant impact on care providers because a large proportion of their support staff are paid at or around minimum wage and they are having to find the funding to meet the cost of the increase.
- 3.4 General inflation is also increasing at higher levels than in past years, with CPI at 3.7% at the time of modelling for these figures and still rising thereafter, which is putting pressure on providers and increasing the cost of services.
- 3.5 Supported Living Services include all Supported to Independence, Intensive Enablement and OP Extra Care services. Based on market intelligence, it is estimated that approximately 80% of costs to providers in these services are driven by staff wages, and the full increase is weighted to reflect this. The remaining 20% of costs arise from other sources such as overheads and office costs.
- 3.6 Residential Services cover both AWD and MH residential packages. The costs to providers differ from supported living because providers are also responsible for property costs and consumables such as food and cleaning materials. Market intelligence estimates that 65% of costs are driven by staff wages, and 35% by general inflation.
- 3.7 Given the ongoing pressures being experienced in the market and more widely within the economy, the Council will continue to keep these pressures under review to ensure appropriate support is made available to the markets.

AWD Residential

- 3.8 ECC has in the region of 990 placements for AWD. All residential contracts are made on a spot basis under either ECC's Pre-Placement Contract 2016 or the AWD Residential Contract 2020. The contracts allow for ECC to provide the uplift at its discretion.
- 3.9 The proposed increase to AWD Residential Services fees mirrors that made in the past two years. The proposed increase has been calculated using ECC's Care Cubed tool. This tool is a Third Party Service used to benchmark residential care packages. This allows ECC to check the value that it receives from providers based on national costing information. The Care Cubed benchmarking tool will be used to indicate which packages are within the expected limits and are therefore eligible to be increased by the agreed percentage uplift.
- 3.10 There will be packages that will not be awarded an increase and the provider will be required to apply to the Council for an uplift. This is the case where providers are already paid the rate calculated by the Care Cubed tool. Where an application has to be made, each application will require a provider to prove a breakdown of hours that are delivered, which will enable officers to benchmark the packages in Care Cubed to assess whether to award an increase. It has been assumed that 50% of AWD packages would be uplifted in this way.
- 3.11 Packages placed with homes outside of the administrative area of Essex will not receive an automatic increase and application will need to be made by providers seeking an increase to these packages. Where an application is received, officers will ask for proof from the provider of the host authority's uplift position for the financial year and, where this is provided, the package will be uplifted to the rate paid by the host authority. Based on previous uptake from out-of-County providers, it is estimated that 50% of providers outside of the administrative area of Essex will make an application to increase the package.
- 3.12 The estimates made in paragraphs 3.9 and 3.10 are based on information obtained from previous years. There is a risk that more providers than anticipated will approach this year for an increase and that the cost to ECC will be greater. If this is the case, further governance will be sought..
- 3.13 Based on this approach and the existing packages commissioned, the recommendation is to increase these packages by 6.34% (inclusive of National Insurance pressures). It is estimated that the total uplift awarded to the market will be £4m. This figure is not equal to 6.34% of the total budget because the approach taken to the uplift of packages (detailed in paragraph 3.9 and 3.10) does not mean an automatic increase of each package.
- 3.14 The risk of not awarding an increase to this section of the market is that it results in providers not being able to provide the services required and ECC being unable to place adults in the service

MH Supported to Independence, Intensive Enablement, and Intensive Enablement Plus

- 3.15 ECC have 291 placements for MH, Intensive Enablement and Intensive Enablement Plus. These contracts are made on a spot basis under either ECC's Pre-Placement Contract 2016 or the AWD Residential Contract 2020. The contracts allow for uplifts to be awarded at the discretion of the authority.
- 3.16 Supported to Independence and Intensive Enablement services are being replaced by a new model of MH accommodation in 2022, and therefore uplifts will not be applied for the whole financial year for this category.
- 3.17 The existing Supported to Independence and Intensive Enablement contracts have been extended until October 2022 and in extending this contract we have entered negotiations with the current providers to increase their rates to a cap of 5%. Further inflationary increases to these packages should therefore not be required from April 2022.
- 3.18 Intensive Enablement Plus placements are made on a spot basis at present, so are not captured in the activity detailed in paragraph 3.19. These services are within the Supported Living category (see: paragraph 3.5.) and a recommendation is made to increase these packages by 6.2%, resulting in an annual increase of £160,000.
- 3.19 Essex County Council is moving to a new model of support in Mental Health accommodation services. As a result, the intention in the longer term is that these services will be captured within the new model, which is due to commence in October 2022 in North and West Essex, and 2023 in Mid and South Essex. In the interim, it is proposed that increases are awarded to these packages to ensure that providers are able to keep pace with the proposed increases to wages and to ensure stability until the new model can be rolled out in Essex.

MH Residential

- 3.20 ECC have around 200 placements for MH, Intensive Enablement and Intensive enablement plus. These contracts are made on a spot basis under ADASS terms and conditions. The contracts allow for uplifts to be awarded at the discretion of ECC.
- 3.21 Mental Health residential placements are typically at a lower rate than those made into AWD residential settings. In previous years there has not been an uplift in rates paid for these services. This is due, in part, to a lack of the information required to establish whether these packages represented good value for money.
- 3.22 Work undertaken this year has utilised Care Cubed to benchmark rates paid to providers, and this has shown that fees paid by ECC are within the expected range and demonstrate value for money.

- 3.23 As a result, the recommendation for this market is to apply an increase of 6.34% across all providers and packages of MH residential in-county and assumed out-of-County increases, at an estimated cost of £340,000.
- 3.24 ECC source some packages outside of the administrative area of Essex because of a lack of capacity to meet the need of the adults within the County, due to either specialist needs or market conditions in Essex. These packages will not receive an automatic increase and application will need to be made by providers seeking an increase. Where an application is received, officers will ask for proof from the provider of the host authority's uplift position for the financial year and, where this is provided, the increase will be approved. It is estimated that 50% of outof-County providers may seek increases and that other local authorities will have a similar rationale for calculating the increase percentage.
- 3.25 Mental Health Residential Accommodation services used by ECC are being reviewed and a future strategy for the shaping of this market will be developed. Whilst this work is ongoing, an uplift is recommended to assure stability and quality. The strategic direction for Mental Health services is to minimise residential placements, and future models will be led by this aim.

OP Extra Care

- 3.26 ECC has in the region of 241 placements for OP Extra Care. These placements are sourced on a spot basis
- 3.27 Personal Care packages within OP Extra Care schemes are placed using a matrix of rates ranging between £13.76 and £17.96, selected by the provider and then applied to all personal care delivered by the provider within that scheme at the time of procurement.
- 3.28 The peace of mind covers the additional cost of staff being on site 24 hours a day, 7 days a week. Within 6 schemes, this is collected directly from the adult; others are paid by the Council as a block payment. Peace of Mind is the provision of staff by the provider that can be called upon at any time by residents for any emergency or unplanned care needs they may have. This is paid on a per week per user basis to the provider, irrespective of usage, and is an equal split of the total amount for each person.
- 3.29 The proposal is to increase the matrix of rates and existing personal care rate by 6.2%, capped at the revised highest matrix rate of £19.08, and for these rates to become effective for all packages from 3 April 2022 in line with invoicing cycle. And for peace of mind to be increased by 6.2% for those schemes on Extra Care Contracts where Essex County Council pays a block payment. Any rates currently paid above the £19.08 will not receive an uplift. The new pricing matrices shall apply to all placements in an Extra Care scheme with the on-site provider on or after 3 April 2022 whether placed by way of an existing contract or a spot contract arrangement.

- 3.30 Based on this approach and the existing packages commissioned, it is estimated that the total uplift to the market will be £231,000.
- 3.31 Extra Care services are being developed across Essex and capacity is required in the future to meet the strategic aims of reducing residential admissions. Increased rates in this market assist to ensure existing services can continue to provide high quality care and staff wages can be increased in line with the impact of the National Living Wage uplifts. Increasing rates will also make this a more attractive proposition to potential suppliers, as we seek to expand the number of Extra Care services in Essex.

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

- 5.1.1 This option would see no increase awarded to the market on current packages. The pro of this approach is that it would not increase costs for ECC because packages would stay at the same rate. The cons are that not uplifting packages will increase financial pressure on providers, which is likely to result in a higher number of hand-backs of packages which require re-sourcing in a challenging market. The quality of care may decrease as providers cut costs further to ensure they can pay the legally required minimum wages.

5.2 Award an uplift below the recommended amounts

- 5.2.1 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. The pros of this approach are that it would result in a smaller cost to ECC, and any increase will assist the market with financial pressures. The cons 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. This could also mean that the quality of care could decrease as providers cut costs further to ensure they can pay the legally required minimum wages.

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

5.3.1 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 pros of this option are that it would significantly reduce the likelihood of package hand-backs from providers for reasons of financial viability, and that it should allow providers to continue to deliver high quality services. The con is that this will be a more costly option for the Council.

6 Issues for consideration

6.1 Financial implications

6.1.1 The estimated cost of the recommended option is £4.7m: £4m for AWD Residential Care, £160,000 for Mental Health Intensive Enablement Plus, £340,000 for Mental Health Residential Care and £231,000 for Extra Care. Within this cost there is £525,000 in respect of the increased cost of national insurance (NI) from April 2022 (£4.2m total without NI)

6.1.2 The current working assumption in the Medium-Term Resource Strategy (MTRS) includes an allowance for annual price increases in line with the above. The full £4.7m will be paid from within the Adult Social Care budget, where provision has been made to help address potential cost of care and demand risks in the care market.

6.1.3 There is a separate Chief Officer Action in train which relates to schemes included in the above calculations for Extra Care. The inflationary change has been considered here, but any other change to rate from the negotiations for this recontract may change the final rate granted, and any change in implications will be included in that decision paper.

6.2 Legal implications

6.2.1 The contracts for AWD, MH Residential, Supported to Independence, and Intensive Enablement contain provision for ECC to give discretionary increases to providers at its discretion. These price uplifts for these contracts would be lawful.

6.2.2 The OP schemes contracts do not contain provision to allow for uplifts and modification of these contracts would need to be in line with Regulation 72 of the Public Contracts Regulations 2015. The value of the uplifts is under the threshold for services and does not exceed 10% of the original contract value. A review will be carried out in relation to the contractual and sourcing arrangements for the OP Extra Care Scheme placement contracts.

6.2.3 These proposed payments are not required to be made by law or under the terms of any contracts and therefore could amount to a gratuitous payment and potentially a subsidy. The European Union (Future Relationship) Act 2020 places the ECC in a very similar position to that in which it would have been had the Council remained in the EU. However, subsidies to offset the harm done by a global pandemic are likely to be lawful under the subsidy control regime. The staffing difficulties at present can be attributed, at least in part, to the destabilising influence of the pandemic, although no doubt this is not the sole cause. The subsidies awarded will need to be recorded on the BEIS website.

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

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor John Spence, Cabinet Member for Adult Health and Social Care	08.04.22

In consultation with:

Role	Date
Executive Director, Corporate Services (S151 Officer) Stephanie Mitchener on behalf of Nicole Wood	30.03.2022
Director, Legal and Assurance (Monitoring Officer) Laura Edwards on behalf of Paul Turner	29.03.2022