

**Forward Plan reference number:** FP/597/01/20

<b>Report title:</b> Day opportunities and inclusive employment service	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Chris Martin, Commissioning Director	
<b>Date:</b> 25 February 2020	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

## 1. Purpose of Report

1.1. This report asks Cabinet to agree to the Council direct awarding to its wholly owned subsidiary, ECL, a five plus two years contract for two main services:

- Buildings based day opportunities for older people and adults with disabilities;
- An inclusive employment service for adults with disabilities.

## 2. Recommendations

2.1 To agree to the direct award to Essex Cares Limited a five year contract starting on 1 April 2020 on terms which allow for extension for a further two years which will include two elements:

- continuation of delivery of building based day services for adults with disabilities and older people, with revised service specifications to align with Meaningful Lives Matter and Transforming Community Care programmes.
- delivery of a new inclusive employment service to support adults with disabilities to get people job ready and increase employment. Allowing employees to move into employment and receive the necessary support to sustain their employment.

## 3. Summary of issue

3.1 In order to meet its duties under the Care Act 2014, Essex County Council currently commissions services known as 'day opportunities'. These services provide a chance for adults with disabilities and older people to take part in activities outside their home, as well as enabling a break for informal carers. ECL are currently the largest sole provider of day opportunities via placements made by ECC social workers through a contract with ECC and via the day opportunities framework. The current contract with ECL for day opportunities is worth £11 million per annum and serves 899 adults (660 LD and/or autism, 239 older people). At present 80% of the contract value is supporting Adults with LD and/or

Autism, and 20% of the value is supporting older people. The current contract comes to an end on the 31 March 2020.

- 3.2 The Council is working to improve services for people with a learning disability and/or autism. The programme of activity is referred to as 'Meaningful Lives Matter' (MLM). A review of these services provides the opportunity to improve life outcomes for this group of clients and also to review spend on these relatively high cost services to ensure that the Council's expenditure is proportionate and effective. One focus area within MLM is employment. Essex performs well compared to other local authority areas for the number of adults with a learning disability in employment. In 2019/20 16% of 18-64 year olds in Essex with a learning disability known to ASC are in employment, compared to a national average of 6%. However, this is still not high enough to reach our ambitions. Young people, and adults who currently attend day opportunities, have told commissioners that they want jobs in a variety of industries but society does not provide the support or opportunities to allow them this employment. This is a systemic issue covering education, adult learning, social care, local employers as well as societal expectations and education.
- 3.3 Essex County Council have engaged with young people, and adults with learning disabilities and autism who use day services, to ask them what is important and meaningful in their lives, and what their aspirations are. The most popular response was to the effect that they wanted paid jobs in industries which they were interested in. Currently, many people with learning disabilities and/or autism are in long term volunteering or work based training and there is evidence to suggest these people's skills could be transferred to employment so that they are fairly paid for their work.
- 3.4 Employment should be considered as a spectrum and whilst full time paid employment may be an achievable outcome for some adults with disabilities, for others, a successful outcome may be employment for one day per week. Nationally, the four main sectors of employment for people with a learning disability and/or autism are horticulture (eg garden centres), animal care, retail (eg charity shops) and hospitality (cafes). These sectors do not match the ambitions of the young people with whom we have engaged, who are interested setting up their own businesses, engineering, and health & beauty to name a few.
- 3.5 Between April and July 2019 ECC ran a "100 Day Challenge" for adults with learning disabilities and autism in three ECL day centres in Essex. The broad focus of the challenge was to look at more meaningful activity for those adults who attended the day centres, particularly to progress them into employment. During this period nine adults secured paid employment, which reduced the use of commissioned managed services, within the 100 days, with a further fourteen accessing volunteering as a step to employment. This was evidence for ECC, and system partners, that there are adults known to our services who are job ready and opportunities for skills progression and employment do already exist in Essex and can be achieved if facilitated.

- 3.6. ECCs main provision of day opportunities is currently provided by Essex Cares Limited (ECL) who currently run their day opportunities service from 25 buildings situated across Essex; 20 of these are owned by ECC.
- 3.7 The current delivery model could be improved based on feedback from adults and frontline staff. Both ECC and ECL feel that there is scope to reduce the number of buildings within the life of the proposed new contract. This efficiency will be delivered by the number of people in building based day centres reducing as a result of existing customers, and new referrals, being supported by ECL to obtain employment. Delivery of the new service won't be restricted to the ECL buildings; delivery of both elements of the service could be from community settings, including employers' premises. Decisions in relation to the use of the current properties will need to be made on a case by case basis on the most appropriate and value for money use of each property throughout the life of the contract.
- 3.8 ECL have been evolving their day service to an outcome based model for a number of years. This transformation will continue by supporting Adults with disabilities and older people currently in building based services to develop meaningful activities, new skills, independence, travel training, and the growth of community engagement to find opportunities for working aged adults to work. This progression will help Adults to increasingly become active and vital members of their local community.
- 3.9 This proposed contract will help ECC to meet its strategic priorities in the Council's Organisation Strategy:
- Help people in Essex prosper by increasing their skills;
  - Enable Essex to attract and grow large firms in high growth industries;
  - Target economic development to areas of opportunity;
  - Help keep vulnerable children safer and enable them to fulfil their potential;
  - Enable more vulnerable adults to live independent of social care;
  - Improve the health of people in Essex;
  - Help to secure stronger, safer and more neighbourly communities;
  - Develop the capability, performance and engagement of our people.
- 3.10 The development of this service is closely aligned to one of the Council's priority areas of focus in Social Value, the creation of jobs for people with Disabilities.
- 3.11 This contract will form part of a wider strategic commitment from ECC to act as a strategic enabler for employment of those with disabilities or vulnerabilities.
- 3.12 At the same time it is proposed that ECC will improve their own recruitment and retention process to support people into employment and will work with local employers, of all sizes, on this agenda.
- 3.13 One option which may be considered in the future is incentivising employers, possibly utilising existing funding streams such as the apprenticeship levy to

provide a financial incentive to employers to recruit local adults supported by this service

### **National context and drivers**

3.14 The Government have shared that they want more people with disabilities getting into work, recognising that work is important for providing structure to life, contributing to a person's status and identity and that appropriate work is generally good for health and wellbeing. Unemployment can have negative consequences for individuals, reducing quality of life, wellbeing and financial stability.

3.15 However, people with disabilities are still considerably less likely to be in paid employment than people without a disability. As well as being costly for individuals, working age ill health is estimated to cost the economy around £100 billion a year.

3.16 In 2017, *Improving Lives: The Work, Health and Disability* Green Paper consulted on how to address these issues.

3.17 In May 2018, the British Association for Supported Employment (BASE) and the Association of Directors of Adult Social Services (ADASS) published Top Tips on Supported Employment which echoes the Government's position and set out that:

*"Councils can play an important role in helping people with a disability who are in receipt of social care to find and maintain a job if they want one, at the same time managing future demand for council-funded social care and helping employers to benefit from a more diverse workforce."*

The paper also shares that nationally:

- Employment rates for disabled people are 31% lower than for the non-disabled population (Commons Library briefing, January 2018).
- The proportion of working age adults with learning disabilities who are receiving long term social care support and are also in paid employment has fallen each year over the last three years, from 6.0% in 2014-15 and then 5.7% in 2016-17. There was a big variation in reported employment rates between local authorities.
- Research into the cost-effectiveness of supported employment for adults with learning disabilities has shown that supported employment is cost-effective in helping people into and maintaining people in paid work (National Development Team 2014).

3.18 In May 2018, ADASS published a checklist to support Councils to provide/commission the best possible support which includes encouraging local authorities to "strengthen the commissioning of employment services, to specify the outcomes and monitor quality".

## **4. Options**

- 4.1 **Option one (not recommended):** Re-commission ECL to deliver the building based day opportunities for older people and adults with disabilities following the current traditional model with no focus on putting adults with disabilities into employment
- 4.2 This option is not recommended as it does not deliver the substantial transformational changes required to meet the ambitions of ASC and particularly the 'Meaningful Lives Matter' programme. Engagement with service users with disabilities and ECL has shown us that the current delivery model is traditional and does not meet the ambitions of ECC, or the ambitions of the young people and the adults whom we serve.
- 4.3 Demand for these services could increase (due to lack of alternative options) which could result in request for further funding from ECL to keep adults with disabilities in day centres if we do not change the model.
- 4.4 **Option two (recommended)** Commissioning ECL to deliver the services under the new proposed model via a five plus two year contract with focus on the following improved outcomes:
- deliver an inclusive employment service for both the adults who currently attend ECL building based day opportunities, and for new referrals coming into their service and
  - buildings based day opportunities for adults with disabilities and older people who would not be able to take up employment and would require ECL to provide:
    - meaningful activities;
    - support for individuals to develop new skills;
    - support for individuals to maximise their independence;
    - support for individuals to travel safely and independently;
    - support for individuals to access their local communities, including social, leisure and health opportunities.
- 4.5 This option aligns with our vision for ASC and ECC's Organisation Strategy as set out in sections 3 and 4 above. The length of the contract has been proposed to allow for real transformational change, whilst also protecting the council by having a formal review point at the end of year two and the safeguards set out in section 6 below
- 4.6 ECC have worked with ECL as a strategic partner throughout and since the 100 Day Challenge and the recommendation to direct award to ECL is for a number of reasons:
1. ECL have evidenced that their staff could work in a way that focuses on increasing people's skills and independence to employment.
  2. as the lead provider of day opportunities in Essex, ECL are well positioned to work with the adults and older people who attend their centres who could be supported into employment. The wider day opportunities market is fragmented and would not be able to deliver this

system change at scale, for all cohorts of service users, without a long period of market shaping and procurement.

3. This would be a transformational contract reflecting our strategic intention to work with ECL on innovative and transformational projects as ECL continues to develop the investment into the progressive and outcome focused service they started to establish over the last two years.
4. would start from an already advanced position as they have already invested in training for their staff and the cultural shift to focus on employment across the organisation has already started as it is recognised that the traditional model does not fit our collective ambitions. As such, ECC would commission the new proposed model of care within the existing financial envelope without the need of fresh investment

4.7 This option will improve the service offer for 239 older people who attend the current building based ECL day opportunities. The service specification will be amended to focus on the points in 4.4 and specific KPIs and outcomes will be measured for older people around socialisation, wellbeing and community participation. ECL have already started this journey so the proposed contract will formalise this approach.

4.8 Having these services within a single contract will allow for adults to seamlessly move to different offers depending on their needs, for example an adult with Down's Syndrome may currently be attending a day centre three days a week but has the potential to be able to work. ECL can support this adult to gain the skills and confidence to obtain employment, thus reducing the need to attend the day centre. The same adult may experience dementia later in their life and ECL will be able to assess their needs and move them to attending an older person's day opportunity where they can socialise and be mentally stimulated to continue to live a good life. The contract will create the conditions for ECL to focus on people's capabilities and tailor the offer of support accordingly within a single contract.

**4.9 Option three (not recommended)** – run a public procurement process for the commissioning of the new proposed model of care.

4.10 This option is not recommended, as the current market across day opportunities and supported employment is not of consistent quality, scale and maturity to undertake the system change this service will require. The current market in Essex would not be able to undertake a service of this size or geographical coverage. The current service with ECL is delivering support to 49.5% of those adults commissioned by the Council to attend day opportunities across 25 sites county-wide. The rest of the support commissioned by Essex is delivered across circa 100 providers. ECL are one of the few organisations in the market with staff skilled to work across all cohorts of Adults (Learning Disabilities, Autism and Older people), again making it challenging to successfully transfer a service of this size and complexity to another experienced organisation.

4.11 The service specification for the new opportunity allows current Adults in the service to benefit from economy of scale and the prospect for different types of employment and training. This would be challenging to replicate in the open

market by much smaller or fragmented providers. Whilst other providers may also offer innovative and progressive services, they are not of the scale to deliver the outcomes of the Council within the proposed timeframes.

## **5. Next steps**

5.1 Award ECL a five plus two-year contract in line with the recommendation above.

## **6. Issues for consideration**

### **6.1 Financial implications**

6.1.1 The total cost of the contract is expected to be up to £55.1m in the initial 5 year contract period with an additional £22.6m for the extension period of 2 years (based on the maximum annual cost seen in the first 5 years year).

6.1.2 The annual cost of the proposed direct award to ECL is expected to be in the region of £10.8m per annum plus any performance payments. The actual value of which will vary depending on performance within the contract requirements. The cost of the contract has been allowed for within the draft 2020/21 Medium Term Resources Strategy (MTRS).

6.1.3 ECC commissioners have worked closely with ECL to collaboratively develop the proposed service, along with a payment mechanism that incentivises increasing the number of people with LD and/or autism into paid employment or non-building based activities where employment is not achievable, as an alternative to traditional day services.

6.1.4 The proposed payment mechanism is outlined in the confidential appendix to this paper along with a number of modelled scenarios for the expected costs of the contract, with varied assumptions in relation to volumes of activity delivered.

6.1.5 There will be no inflationary uplift for the lifetime of the contract. This provides an efficiency which contributes towards the savings against the MLM programme already built into the MTRS. Although there are currently no savings assumed within the MTRS in relation to the impact of this contract on care cost, there is potential for savings outside of the contract budget from reductions in other services currently provided to those who successfully attain employment. This will be monitored throughout 2020/21 and where appropriate built into the budget as a saving through the 2021/22 MTRS process.

### **6.2 Legal implications**

6.2.1 The proposed new contract to be awarded to ECL will have a duration of five years with the option to extend for further two years. This contract would be directly awarded to ECL under Regulation 12 of the Public Contracts Regulations 2015.

6.2.2 This is lawful because ECL is a wholly owned subsidiary of the Council and meets the other requirements in the regulation 12 which means that the Council is permitted to directly award contracts to it. The converse to this is that ECL is required, when buying works goods or services, to apply the provisions of the Public Contracts Regulations 2015.

6.2.3 The contract to be awarded to ECL will contain the following key terms to manage the risk to the Council and safeguard service continuity:

- Termination rights on both parties so that neither the Council or ECL are locked into a long term contract should the arrangements became unsatisfactory or unviable during the life of the contract;
- Payment mechanisms which from year 3 link reward to performance and provides the Council with the right to decide on how to re-invest savings as well as making deductions;
- Measurable Key Performance indicators and strict monitoring terms which are designed to enable the Council to exercise sufficient oversight of the service delivery as well as encourage joint strategy and collaboration between the parties;
- Sufficient flexibility to allow the Council and ECL to review the operations periodically so as to optimise the delivery model as needed to meet the needs of the relevant vulnerable adults and meet the outcomes set by the Council;
- The obligation on ECL to seek to reduce property occupancy throughout the life of the contract and co-operate with the Council in developing a property strategy for the utilisation of these properties as needed to meet the Council's statutory duties towards the population of Essex.

## **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 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**

8.1 Equality Impact Assessment

8.2. Financial appendix

## **9. List of Background papers**

- 100 day challenge final report
- ECL 20/21 Business Plan
- British Association for Supported Employment – best practice guidance for local commissioners' report
- Day Opportunities Category plan
- Learning Disabilities and Autism Employment Strategy