

**Forward Plan reference number:** 'Not applicable'

<b>Report title:</b> Care Technology Procurement for Adult Social Care	
<b>Report to:</b> Councillor John Spence - Cabinet Member for Health and Social Care.	
<b>Report author:</b> Nick Presmeg – Executive Director for Adult Social Care	
<b>Date:</b> 25 <sup>th</sup> September 2020	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

## 1. Purpose of Report

- 1.1 To provide an update on the impact of Covid-19 on ECC's requirements for the future Care Technology service and to take a decision on the procurement process.
- 1.2 To obtain authorisation to stop the current procurement and commence a new procurement exercise using the Competitive Procedure with Negotiation (CPN) approach with contract mobilisation commencing on 1<sup>st</sup> March 2021 with full services commencing 1<sup>st</sup> June 2021.
- 1.3 To seek agreement to award the contract(s) to the winning bidder(s) using a weighting of 100% quality, of which 20% will be allocated specifically to social value for both Lots 1 and 2.

## 2. Recommendations

- 2.1 To agree to not award pursuant to the current Care Technology procurement and notify all bidders and interested parties.
- 2.2 To agree to commence a procurement process for a four-year framework for care technology using CPN and to award a call-off contract for a period of three years for Care Technology Services with mobilisation commencing on 1<sup>st</sup> March 2021 and full services commencing 1<sup>st</sup> June 2021.
- 2.3 To agree that the tender evaluation criteria for award of the Framework will be based on fixed price and a weighting of 100% quality, of which 20% will be allocated specifically to social value for both Lots 1 and 2 with the agreement to the evaluation criteria subject to the approval of the s151 Officer to ensure value for money is demonstrated.
- 2.4 To delegate to the Executive Director for Adult Social Care to award the Framework and Call-off contract following the successful completion of the CPN.

- 2.5 To agree to fund the contracts from the adult social care budget already set up for care technology with any additional costs (e.g. through additional volume) funded through cost avoidance and benefits realisation.

### **3. Background**

- 3.1 ECC's adult social care vision is for every adult to be able to live as independently as possible and to enjoy a good and meaningful life. Modern technology can play a crucial role in enabling people to enjoy independence and good lives even as their needs increase.

#### **Current Procurement Process**

- 3.2 In October 2019, Cabinet (FP/494/08/19) agreed to invite tenders for a framework agreement to deliver an end-to-end care technology service, to include a monitoring, pick-up and response service component.
- 3.3 The decision taken by Cabinet approved the procurement of a framework agreement with the call-off contracts being awarded for an initial 3 years, with the option to extend the call-off for up to a maximum of a further 4 years (in two periods of two years each) at the sole discretion of the authority. The weightings of the evaluation for Lot 1 were 53/47 in favour of price, and for Lot 2 were 70/30 in favour of price.
- 3.4 The tender was released on 21<sup>st</sup> November 2019 and final bids were submitted 1<sup>st</sup> April 2020. The process was delayed, and the submission timetable was extended several times in order to allow the bidders sufficient time to process additional information provided by ECC at the request of the Bidders.
- 3.5 Bids were received by ECC on 1<sup>st</sup> April. Eight bids were received in total with six bids received for Lot 1 and five for Lot 2. One bidder for Lot 1 withdrew their bid and indicated this was due to resource issues as a result of the COVID-19 pandemic.
- 3.6 At the time that the bid responses were received, the COVID -19 pandemic diverted ECC resources to respond to critical service requirements and it was decided that evaluation of the bids should be postponed. Evaluation of the bids commenced at the end of May 2020. By the time evaluation commenced, it was recognised that the original requirements had changed due to changing needs presented by the COVID-19 pandemic and award based on the ECC requirements would not meet ECC's needs for the next four years. As part of the procurement documentation ECC reserved the right to cancel, suspend or not award the contract. It is proposed that contracts should not be awarded and that the requirements should be updated to reflect the changing requirements.
- 3.7 ECC's requirements have changed since the commencement of the original procurement because:

- The need for digital /technology solutions to deliver care and support has been amplified as part of the crisis response. The pandemic has increased the need for a digital service offer for citizens with eligible social care needs; particularly for those who are shielding or reside with individuals who are shielding.
- Essex is likely to see a permanent cultural shift in the use of technology/digital solutions as a result of the pandemic; the successful Provider(s) needs to be able to deliver a quality service model that is able to lead this culture change both across the workforce and into communities. Essex wants to be the vanguard in how technology is used to deliver care and support, and how citizens engage with it. This procurement needs to reflect this shift.
- The pandemic has incentivised and accelerated technological innovations in health and care, in a technology sector that already progresses at a quick pace. We need to make sure that our technology offer evolves and keeps pace with developments.
- Insight through the pandemic has shown that people connect and engage with technology/digital solutions when supported to do so by people they trust and who they are in contact with. This insight has highlighted the importance of whole system collaboration, and the need for a quality service model which is able to mobilise quickly, work within local systems, across Essex, and even nationally and internationally.
- The pandemic and period of extended lockdown has had a negative impact on the economy, and subsequently employment, which we know has a direct correlation to health and wellbeing. Public Services have a responsibility to protect and promote local employment and we are proposing to increase the weighting of social value in how we award the contract in this new procurement process.

## **New Procurement Process**

- 3.8 Work was undertaken to consider the service that would be required to respond to the pandemic and beyond and it is now proposed that ECC go back out to the market with revised requirements to procure a service that will include the take-up of technology across health and social care, enabling virtual consultations, online appointments and enabling people to connect with friends, family and care support through virtual means, helping address social isolation.
- 3.9 It is proposed that a new procurement process will be commenced to commission a provider, or a collaboration of providers, who will supply an end-to-end pathway of services which will be included in two lots that include:

### Lot 1

- An accessible platform to inform citizens of the benefits of care technology, and a clear pathway to access the service
- A care technology system where the provider(s) operate a system for social workers to make referrals to the provider to undertake a care technology assessment for a technical solution
- Identify and purchase care technology equipment

- Deliver, install and maintain care technology equipment, including support for users and families
- Collect and de-commission care technology equipment no longer required, and store and re-use equipment for future deployment
- Tracking and realisation of financial and non-financial benefits
- Programme of culture change, engagement and training to all referring groups
- Continuous innovation and service development, agreed in partnership with ECC
- Provision of a service where those not eligible for ECC assistance may purchase services via a private, commercial process.

## Lot 2

- Provide a monitoring, pick-up and response service where the service user or the care technology indicates that this is necessary
- 3.10 While the budget for the service remains unaltered, it is important for ECC to understand the services available for the budget. Insight from the market shows that requirements can be met within the original budget envelope set aside and agreed as part of decision FP/494/08/19. There is a wide variant of quality. It is for this reason that it is proposed that ECC go back out to the market, using CPN. CPN is a procurement process which allows for a degree of discussion and negotiation on the offer being made by bidders and will allow ECC to understand and reach the best possible position with Bidders through the procurement process to achieve the best possible service. A CPN can be used to negotiate with bidders on key points such as key performance indicators.
- 3.11 ECC's standard weightings in a procurement are 70% Price and 30% quality. It is proposed that tenders for this service are evaluated with a weighting of 100% of quality. Evaluation will be on the ability of a bidder(s) to deliver a high-quality and innovative service, or bundles of services, within the agreed fixed budget envelope. The evaluation criteria will assess bidders on the ability of their model, and proposed approach, to deliver best outcomes for the people of Essex as well as provide assurance that the savings to ECC will be deliverable. The evaluation criteria used will be linked to the Key Performance Indicators (KPI's) and it is proposed that the final criteria are subject to section 151 Officer approval to ensure that value for money is demonstrated. The financial return to ECC will be one of the KPI's worth 35% for Lot 1. This service is a first for Essex and is critical to the ongoing response, re-set and recovery from COVID-19.
- 3.12 It is also proposed that 20% of the quality weighting for the procurement exercise will be based on social value. Social Value evaluation criteria will allow ECC to promote social value within its procurement and workforce practices, and in doing so protect local employment and sustain the growth of local communities as a foundation to how services are purchased and delivered.
- 3.13 At the same time as procuring a Framework, ECC will run a mini competition for a call off contract. The proposed call off will be for Care Technology services

and for 3 years. It is proposed that mobilisation of the services called off from the Framework will commence in March 2021 with commencement of full services in June 2021.

3.14 The indicative high-level timescales for the procurement and mobilisation are:

Activity	Start date	End Date
Publish Tender	12/10/2020	12/10/2020
Tender Closes	11/11/2020	11/11/2020
Evaluation	12/11/2020	04/12/2020
Bidder presentation	16/11/2020	18/11/2020
Negotiation	07/12/2020	08/01/2021
Final Consensus	11/01/2021	15/01/2021
Contract Award	01/03/2021	01/03/2021
Contract commencement (Mobilisation/Interim services)	02/03/2021	31/05/2021
Full services Commencement	01/06/2021	01/06/2021

## 4. Options

4.1 Option 1 (recommended): Cease the current procurement and then go back to the market and undertake a new tender 1) using the Competitive Procedure with Negotiation, (CPN); 2) with a new target of contract mobilisation commencing 1st March 2021 with full services commencing 1st June 2021; and 3) with revised quality weighting of 100% quality, of which 20% will be allocated specifically to social value for both Lots.

Benefits	Risks
<ul style="list-style-type: none"> <li>Providers can respond accordingly to the changed aims and develop their service models accordingly to better meet ECC requirements;</li> <li>By using a CPN process, ECC can negotiate the bids received which we are unable to do within the current procurement process</li> <li>The successful provider(s) will have demonstrated the level of quality and a delivery/ service model that evidences how they will generate local social value</li> </ul>	<ul style="list-style-type: none"> <li>Reduced benefits both financial and non-financial due to the delayed start date of the new county-wide service.</li> <li>Poor re-engagement due to the ongoing delay to procurement timeline</li> <li>Providers do not bid as they dislike the constraints of the tender or cannot respond to the requirements or time frames</li> </ul>

4.2 Option 2 (not recommended): Stop the current tender process and build an in-house service to deliver the requirements as set out in paragraph 4.1. This is not recommended due to timescales, capacity and capability gap.

- 4.3 Option 3 (not recommended): Cease the current tender process and direct award our requirements to Essex Cares Limited (“ECL”). Because of ECL’s status as a “controlled person” under regulation 12 of the Public Contracts Regulations 2015 (“PCR15”), a direct award to ECL is legally permissible. This option is not recommended because:

- The current tender has indicated that there is sufficient competition in the market to meet our requirements. A competitive process will help ensure ECC secures the highest quality service and in doing so best value for money.

- 4.4 Option 4: (not recommended) Continue with the current tender evaluation and award process and award a contract. This option is not recommended due to factors set out in 3.6 and 3.7. The current procurement does not meet the new aims and increased focus on quality (including social value in an economic recovery context).

## **5. Issues for consideration**

- 5.1 ECC is required to inform the current bidders of this decision and their plans to move forward. ECC will also have to consider the future of the current arrangements of the Essex Carelines as Epping Forest District Council has informed ECC that they are ceasing their Careline service at the end of the year. A further decision paper will be drafted to inform options.
- 5.2 ECC will need to consider the future of the care technology Pathfinder service in South Essex whilst this procurement is being undertaken. A further decision paper will be drafted to inform options
- 5.3 As a result of the economic pressures that have emerged during the pandemic, there is likely to be an increase in unemployment throughout the County. The new procurement will include social value criteria aimed at supporting employment in Essex.

## **5.4 Financial implications**

- 5.4.1 The proposed contract price will be fixed but made up of two elements. The first element will be based on an annual sum to cover the culture change aspects such as training, awareness raising, developing the accessible platform, innovation and a fixed cost for the mobilisation/interim service. This element constitutes 18% of the contract value, or about £1.6m. The other element of the contract (82% or £7.3m) will be based on a fixed unit price for agreed volumes determined from insight gleaned through the South Essex Pathfinder and the current procurement. This will cover the assessment, installation, equipment provided, maintenance and decommissioning requirements. As outlined in paragraph 3.11 we will judge this element based on the quality of the offer that bidders can provide within this financial envelope.
- 5.4.2 Existing telecare stock owned by ECC from the South Essex Pathfinder, valued at approximately £638,000, will be transferred (transfer of ownership)

to the successful Lot 1 bidder as part of this procurement process to be managed and re-purposed where appropriate.

5.4.3 Insight from the market indicates that costs can be contained within the budget envelope as detailed in 5.4.8 for the initial 3-year contract period. The funding required for this new contract will come from existing budget available for care technology within ASC created from the original cabinet decision.

5.4.4 The proposed contract costs and split of fees is shown in the table below:

- 18% of total estimated costs, (or £1.6m) for LOT 1 only
- 82% of total estimated costs (£4.1m for Lot 1 and £3.2m for Lot 2) will vary according to volumes but will be paid through fixed unit costs
- In total Lot 1 costs are £5.7m and Lot 2 £3.2m over the initial 3-year contract period.

Breakdown of the proposed lots over the 3 year contract term				
	Lot 1 £m	Lot 2 £m	TOTAL estimated contract £m	% Split %
Fixed Fee	1.6	0	1.6	18%
Volume related fee (paid with a fixed unit price)	4.1	3.2	7.3	82%
<b>Total Contract Price</b>	<b>5.7</b>	<b>3.2</b>	<b>8.9</b>	<b>100%</b>

5.4.5 These figures are inclusive of any TUPE between employers that may apply. The anticipated volumes of new installations have not changed although there are expected to be more service users from the South Essex Pathfinder who will transfer to the new service. If service volumes increase then the costs of the contract will increase, although the provider will be paid for additional volume using the agreed fixed unit cost as set out in the procurement. However, the anticipated financial benefits of care technology more than pays for the anticipated lifetime cost of the care technology based on the financial modelling undertaken and ECC would expect a net return of at least £600 per installation.

5.4.6 As indicated above, applying a 100% quality of which 20% is social value rating does mean the funding envelope is fixed and that we will be asking bidders(s) to evidence to us what quality we can get for that money. The evaluation criteria will also assess bidders on the ability of their model, and proposed approach, to deliver best outcomes for the people of Essex as well as savings to ECC. The agreement of the evaluation criteria will be subject to s151 Officer approval to ensure that value for money is demonstrated. The contract will contain Key Performance Indicators (KPI's) which will include targets around savings delivered. In addition, part of the payment mechanism for the contract will be linked to the achievement of KPI's to ensure ECC gets the quality of service it is paying for. It is proposed that 35% of the payment

mechanism for Lot 1 will be specifically linked to the delivery of financial benefits.

- 5.4.7 The South Essex Pathfinder has demonstrated that financial savings are achievable. The benefit realisation model is largely predicated on cost avoidance: improving outcomes by meeting people's needs using care technology and in doing so enabling independence. Through this new contract it was estimated that savings would be achievable over 3 years which would be in excess of the initial investment costs and this was included in the 2020 Medium Term Revenue Savings (MTRS). The delay in the procurement has led to a reprofiling of these savings over future years and the revised savings profile has been included in the 2021 MTRS proposals. Savings will be achieved while improving the lives of residents.
- 5.4.8 In summary the indicative contract cost (including any TUPE costs) and project benefits over the period of the 3-year contract are set out below. The initial 3-year contract would end at the end of May 2024 and therefore the financial modelling for 2024/5 only considers 2 months of the financial year. However, the contract terms allow for two further two-year extensions to be made and so future savings are anticipated. These will be subject to separate decisions but indicate that further costs and delivery of benefits can be expected for 2024/25 and beyond.

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COUNTYWIDE SOLUTION (Initial 3 year contract costs only)						
	2020/21 £'000	2021/22 £'000	2022/23 £'000	2023/24 £'000	2024/25 £'000	TOTAL £'000
Indicative Contract costs	67	1,678	2,774	3,694	640	8,852
Contract Management costs		108	130	130	22	390
Indicative Savings delivery		- 3,209	- 6,386	- 7,066	- 3,117	- 19,777
Net impact of Countywide contract	67	- 1,423	- 3,482	- 3,242	- 2,455	- 10,535

- 5.4.9 The resources required in setting up the contract can be met from within the existing staffing establishment. However it is proposed that there is an element of performance payment within this contract which will require close monitoring over the life of the contract and therefore additional resource will be required to support this from across Commissioning, Procurement and Finance, estimated to be approximately £115,000-£130,000 pa to be funded from the net savings delivered. Depending on the chosen solution there may be additional costs of interfacing with the case management system (currently Mosaic) and these will need to be contained within the ASC budget, however these are not expected to be material (Approx. £25,000 initial costs and £10,000 per annum).



## 5.5 Legal implications

- 5.5.1 The initial tender documents reserved the right to terminate without award. ECC may exercise this right provided that it acts reasonably and provided that the decision and rationale comply with the principles of openness, fairness, and transparency.
- 5.5.2 Any new procurement must be conducted in line with the regulations governing that procedure. Points of negotiation under the CPN must be carefully scoped and controlled in accordance with regulation 29 of Public Contracts regulations 2015 (PCR15).
- 5.5.3 Regulation 67 of the PCR15 sets out how evaluation criteria are to be established and ECC is permitted to set a fixed price and evaluate on quality only if it considers that it demonstrates the most economically advantageous tender. Regulation 67 also allows ECC to consider Social aspects of a tender in assessing quality.
- 5.5.4 The Public Services (Social Value) Act 2012 requires ECC to consider social value for procurement exercises it undertakes. The commissioning service has considered the existing, and proposed replacement, tender in light of changed circumstances for the reasons set out above.

## 6. Equality and Diversity implications

- 6.1 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.
- 6.2 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).
- 6.3 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.

## 9. List of appendices

- 1. Care Tec Procurement Decision Paper Oct 2019 – Ref FP/494/08/19
- 2. EQIA – Ref EQIA141484777

## 10. List of Background papers

N/A

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b>  <b>25/9/2020</b>
<b>Councillor John Spence, Cabinet Member for Health and Adult Social Care</b>	

In consultation with:

<b>Role</b>	<b>Date</b>
<b>Executive Director for Finance and Technology (S151 Officer)</b>	<b>24/9/2020</b>
<b>Stephanie Mitchener on behalf of Nicole Wood</b>	
<b>Director, Legal and Assurance (Monitoring Officer)</b>	<b>24/9/2020</b>
<b>Laura Edwards on behalf of Paul Turner</b>	