

Report title: Review of the Integrated Residential Nursing (IRN) Framework for 2020	
Report to: Councillor John Spence - Cabinet Member for Health and Adult Social Care	
Report author: Steve Ede- Head of Procurement	
Date: February 2020	For: Decision
Enquiries to: Steve Ede, Head of Procurement – steve.ede@essex.gov.uk; 07919 624849 Anna Porter, Category and Supplier Relationship Specialist anna.porter@essex.gov.uk 07881310760	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 This report seeks authority to re-open the Integrated Residential Nursing (IRN) Framework in February 2020 and to adjust the price matrix on the framework.

2. Recommendations

- 2.1 To agree to undertake a mini-tender (referred to as the Annual PSRL Review Process within the IRN Framework Agreement) to allow new providers onto the framework and existing providers to resubmit prices that will apply to any placements made one or after 1st June 2020.
- 2.2 Alter the price matrix with effect from 1st June 2020 so that each price band is increased by 6.6% per week for residential care and by 5.7% per week for residential care with nursing as set out in Appendix A, such changes taking effect from 1st June 2020
- 2.3 To delegate authority to Executive Director, Adult Social Care, to execute the outcome of the mini-tender; re-ranking of providers in accordance with the published criteria and awarding contracts to any new providers.

3. Summary of issue

- 3.1 The Integrated Residential Nursing (IRN) Framework (the IRN Framework) was created in 2016 to source care in a residential setting for older people and adults with non-complex mental health needs, with or without nursing care.
- 3.2 The Framework allows the Council to move away from spot purchasing care, which are cumbersome in terms of contractual arrangement, can delay placement of people into a service, and can be more expensive.

- 3.3 The IRN Framework has been in place for three years. The Framework contains provision for the Council to re-open the Framework every year via an Annual PSRL Review Process to invite new providers to participate. Any new entrants will be required to adhere to the criteria specified in the original tender. This mechanism enables the Council to increase the number of Residential and Nursing Homes available to residents to choose from, whilst ensuring the services are of good quality and value for money.
- 3.4 During the Annual PSRL Review Process existing providers on the IRN Framework may submit a new price. The score attributed to their selected price, is then added to their quality score to provide their overall score. The overall score then determines the provider's rank on the PSRL.

Performance of the IRN framework 2019

- 3.5 For residential placements the IRN framework has been very successful, with 80% of permanent in-county placements being made via the framework success rate.
- 3.6 For nursing placements, the IRN framework is not as effective. This is partly because of the low number of providers who chose to join the framework when it was first established.
- 3.7 The number of Essex placements made via the IRN Framework since June 2019, including re-contracting where changes to packages have been made, were 424 residential and 70 nursing, and the total number of placements made by the Council (via the IRN Framework and on a spot basis, not including placements using Block Contracts) equate to 539 residential and 153 nursing. The IRN Framework therefore represents a large source for the provision of residential and nursing placements
- 3.8 The Council has a number of arrangements for the residential and nursing placements. These include Block Contracts, Nominations Contracts, the IRN Framework and Spot Placements.
- 3.9 The current spread of placements across all types of arrangement is as per the tables below. Currently 70% of residential placements and 43% nursing placements are made via the IRN Framework:

Residential - Older People

IRN	70%
Nomination/Block	11%
Spot	19%

Average IRN rate	£ 561
Average Spot rate	£ 693
Difference	24%

CQC Good or Outstanding	74%
-------------------------	-----

Nursing - Older People

IRN	43%
Nomination/Block	6%
Spot	51%

Average IRN rate	£ 656
Average Spot rate	£ 803
Difference	22%

CQC Good or Outstanding	67%
-------------------------	-----

These figures represent the period June to December 2019, for in-county permanent placements.

3.10 The IRN Framework has delivered some important advantages to service users, and the council:

- the Council can offer places to individuals in a much more responsive way, knowing that individual rates and contracts do not need to be negotiated each time. Importantly, individuals and their families know that providers on the IRN Framework meet the Council's minimum quality standards;
- business processes are reduced as there elements such as pricing, service requirements and performance standards are agreed in advance of placement. The monitoring of the performance standards allows the Council to monitor large parts of the residential market in a consistent way.

Proposed changes to the IRN framework for 2020

3.11 Since 2012 the Central Government have steadily increased the National Minimum wage (NMW). The cost of care work for Older People suggests that the staffing costs are between 60% – 80% of their overall cost base and that many of these staff are on low or minimum wage.

3.12 The National Living Wage will increase by 6.2% to £8.72 in April 2020. In addition, providers with a pay bill of over £3m per annum must pay the Apprenticeships Levy of 0.5% of their total pay bill as well.

3.13 Additional pressures on staffing costs include the changes to pensions, offering all staff the opportunity to save

	Employer minimum contribution	Total Minimum contribution
5th April 2018	1%	2% (Including 1% staff contribution)
6th April 2018 - 5th April 2019	2%	5% (Including 3% staff contribution)
6th April 2019 onwards	3%	8% (Including 5% staff contribution)

3.14 Historically, other costs such as increases on fuel, food, utilities etc have also had an impact on a care homes profitability.

3.15 The impact of these costs will vary from provider to provider, depending on their rates of pay, the number of staff they employ, the size of the home and occupancy levels.

3.16 It is proposed that all price points on the existing IRN Framework pricing matrix are increased:

- (a) by 6.6% for residential placements made on or after 1st June 2020, which is expected to maintain the high percentage of placements made via the framework.
 - (b) by 5.7% for nursing placements made on or after 1st June 2020 and this is expected maintain nursing placements at their current rate. This is below the original predicted figure, however work is going on in localities with providers to encourage them to come onto the framework for both lots 2 and 3. Failure to increase at all would potentially see a drop against the targeted percentage of placements.
- 3.17 The increases, to all price points on the pricing matrix does not necessarily mean that the cost of new placements will increase by this rate because providers will be free to choose any price point on the matrix. It is, however, likely to increase average prices paid for new placements made on or after 1st June 2020.
- 3.18 Prices for existing placements will only increase if the home signs up to the IRN framework as part of the 2020 refresh, and those placements are at a rate less than the new minimum rate on the price matrix. This will attract an uplift up to the minimum price on the framework from this date, if the price paid for any existing placements at a rate less than the new minimum rate.
- 3.19 The prices proposed for this refresh of the IRN Framework have been determined through a blended inflationary calculation of the annual increase in costs to providers, underpinned by market insight in order to maintain the current interest and performance of placements made through the IRN framework. This has resulted in the pricing matrix rate uplifts of 6.6% for residential care and 5.7% for residential care with nursing.

Duty to promote a sustainable market

- 3.20 The Council has a duty under section 5 of the Care Act 2014 to promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in its area has a variety of providers to choose from. More detail about this is given in section 5 of this report. In discharging this duty the Council must have regard to ensuring the sustainability of the market.
- 3.17 With respect to the specific requirements of section 5:
- (a) The Council makes available, information about the providers of services for meeting care and support needs and the types of services they provide.
 - (b) The Council regularly reviews demographic information about needs and likely future needs. It is currently able to meet needs at the rates paid under the framework and the recent re-opening of the framework led to 11 new homes joining the framework;

- (c) The Council encourages providers to provide opportunities to participate in education or training although participation in work is less relevant for those older people who need residential accommodation;
 - (d) the importance of ensuring the sustainability of the market – the Council does this by monitoring the performance of homes. As stated above the rates paid overall do appear to be sustainable;
 - (e) the importance of fostering continuous improvement in the quality of such services and the efficiency and effectiveness with which such services are provided and of encouraging innovation in their provision; The Council does this by the work outlined above and the proposed cap will seek to promote efficiency by not paying increases to such homes.
 - (f) the Council works hard to ensure that there is a high quality work force by training and recruitment initiatives as outlined above.
- 3.18 The Essex market for residential accommodation appears to be operating in a sustainable way. Placements are not being terminated, homes are not closing, the Council is not aware of price related quality issues. The current framework is operating as expected.
- 3.20 Last year, the Council, undertook an exercise to understand the indicative cost of care for the provision of residential and nursing care. To assist the Council with the discharge of its statutory duties under the Care Act 2014, and the associated Statutory Guidance regarding the promotion of a sustainable market.

Analysis

- 3.21 The market for residential care in Essex appears to be continuing to operate sustainably. The Council pays providers on the basis of the rates which providers have selected from the pricing matrix. Providers on the framework have accepted placements in the knowledge that the National Living Wage was due to increase and that once a placement was accepted the price would remain fixed for the duration of the placement.
- 3.22 As costs increase over time, the IRN Framework is likely to become less attractive if the pricing matrices are unchanged, particularly to those homes already charging prices at or near the top of the matrix. On that basis it is considered likely to assist with maintaining interest in the IRN Framework and with maintaining a sustainable market if all prices on the matrices are increased. Increasing the all prices points on the IRN Framework pricing matrices will allow all providers the opportunity to increase prices for new placements, even if their current price is at the top of the matrix.
- 3.23 It is not of course known whether providers will choose to increase their prices or, if they do, the size of any increase. The Council will clearly need to continue to monitor the sustainability of the market in Essex and whether it and others are able to continue to source its needs from the market.

4. Options

- 4.1 Do Nothing** - This option is not recommended as it is not compliant with the current IRN Framework contract which sets an expectation that the contract will be re-opened annually.
- 4.2 Re-open the Framework – Allowing bidders to join the IRN Framework and existing providers to re-submit prices; but leave the pricing matrices as is** - this option opens the IRN Framework up, as required, but as the majority of the providers have bid at the top of the pricing matrix, this means the majority of providers would not be able to increase their price.
- 4.3 Re-open the IRN Framework and increase the prices on the Pricing Matrices (recommended)** - this option opens the IRN Framework up, as required. Providers would not be required to increase their prices, accept the provider at the bottom of the matrix, but would have the opportunity to do so. Noting that doing so may affect their rank on the PSRL.

As the majority of providers, have currently selected the maximum rate on the applicable pricing matrix, this option may increase interest in remaining on the IRN Framework and reduce the likelihood of, or an increase in, the use of spot placements.

This increase would apply only to new placements made via the IRN Framework, on or after, 1st June 2020. Providers will be required to select a new price, that allows them to remain financially sustainable.

5. Next steps

- 5.1** Subject to approval of this report, the framework will be reopened and the Executive Director of Adult Social Care will be authorised to award contracts to additional providers who join the framework and determine the re-rank of the providers on the framework. No further decisions will be required.

6. Issues for consideration

6.1. Financial implications

- 6.1.1.** Essex County Council spends a significant portion of its budget on providing residential and nursing care for older people. The 2019/20 forecast is a gross cost of £138m (£80m net) and is expected to increase in future years in line with inflation and demographic pressures. The Medium-Term Resource Strategy (MTRS) takes account of these expected pressures.
- 6.1.2.** The recommendation is to amend the current pricing matrix by increasing all rates for each locality by a fixed percentage. The rates proposed for the framework refresh have been determined in order to reflect the increasing cost of care to providers and to maintain interest in framework membership, while

continuing to deliver the current proportion of contract placements compared with spot purchasing.

- 6.1.3. The expected net cost of the recommended option, assuming the new price matrix goes live on 1st June 2020, is £1.7m in 2020/21, rising to £3m in 2021/22 and £4.5m in 2022/23 as the full year effect is realised. This phasing is due to framework price increases only applying to new placements, with the exception of increases to current packages for IRN homes where the price is below the new minimum framework rate. The net cost incorporates the fact that many service users contribute towards all or some of the costs of their care, which will reduce the financial impact of price rises to the Council.
- 6.1.4. The above financial modelling of the recommended option assumes a neutral position on suppliers joining or leaving the framework. Whilst the process does allow new providers to join, it is unclear whether providers will choose to do so. It also assumes that they maintain their current position on the pricing matrix, and that the proportion of new placements at contracted rates compared with spot will continue in the same average ratios as since the framework began.
- 6.1.5. The proposed price increase and expected impact on future expenditure can be contained within the 2020/21 budget and MTRS.
- 6.1.6. If the suppliers of all current packages chose to join the framework, there would be an additional pressure of £280,000 in 2020/21 as a result of uplifts to the minimum framework rate (the impact reducing in future years as packages end). However, this would likely be more than offset by savings on future packages through the greater availability of homes offering framework rates, reducing spot placements and the associated marginal cost.
- 6.1.7. While many providers are already placed at the highest available price, there is a possibility that existing providers choose to increase from their current point on the pricing matrix. If all existing providers choose the maximum possible rate for their locality then this could result in an additional, eventual annual pressure of £520,000 by 2022/23, assuming there is no compensating reduction in spot market prices.

6.2. Legal Implications

- 6.2.1. The IRN Framework Agreement says that the Council will open the PSRL Review Process annually, on or around the anniversary of the Commencement Date. IRN Framework Agreement therefore permits the Council to run the PSRL Review Process.
- 6.2.2. Whilst the IRN Framework Agreement does not expressly state that the Council is able to amend the pricing matrices, as the Framework shall be open to New Entrants to bid no bidder/provider is given a competitive advantage over another.

- 6.2.3. Residential and Nursing Care Services are considered to be Light Touch for the purposes of the Public Contracts Regulations 2015 ('the Regulations') and are therefore not subject to the full rigour of the Regulations. ECC is therefore not required to procure these services using one of the procedures defined in the Regulations, provided that the procedure adopted complies with the treaty principles of transparency, equal treatment and fairness.
- 6.2.4. The duty to promote a sustainable market in the Care Act 2014 is set out elsewhere in this report.

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 of this kind, 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.
- 7.4. There will be a positive impact to older people using a service featuring the requirement to deliver care based on key service user outcomes. The care procured will not differ that significantly from care currently procured.

8. List of appendices

Equality Impact Assessment
Appendix A – Proposed Pricing Matrices

9. List of Background Papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date
	28.02.20

Councillor John Spence, Cabinet Member for Health and Adult Social Care	
--	--

In consultation with:

Role	Date
Director for Adult Social Care Nick Presmeg	03/02/20
Executive Director for Finance and Technology (S151 Officer) Stephanie Mitchener for Nicole Wood	20/02/20
Laura Edwards, Legal Services Manager on behalf of the Monitoring Officer	19.02.2020