

Forward Plan reference number: FP/526/09/19

Report title: Annual Refresh of the 4 year Live at Home Framework	
Report to: Cabinet	
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Date: 26 November 2019	For: Decision
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County Divisions affected: All Essex	

This report includes a confidential appendix which is **not for publication** by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

- 1.1 To seek approval to permit existing providers on the Live at Home Framework to refresh their pricing and to permit new providers to bid for inclusion on the framework.

2. Recommendations

- 2.1. To uplift the minimum hourly rate for standard domiciliary services delivered via the Live at Home Framework and spot purchasing arrangements from £15.28 to £16.56 for all new and existing packages with effect from 5 April 2020.
- 2.2. To retain the current 24 hour live in and night asleep rate of £11.76 per hour.
- 2.3. To increase the upper end of the pricing matrices within the Live at Home Framework Agreement from £17.96 to £19.48 (£20.48 in Epping) per hour from 5 April 2020 and adopt the pricing matrices as detailed in Appendix B.
- 2.4. To authorise the amendment of the Target Supply Areas used within the Live at Home Framework to reflect demographic demand pressures in Essex.
- 2.5. To issue existing providers with a Deed of Variation to give effect to the changes to the terms and conditions referred to in this report.
- 2.6. To commence the Annual Review Process required by the Live at Home Framework to permit new providers the opportunity to be included on the Framework and allow existing providers to amend their prices.

- 2.7.** To delegate to the Executive Director of Adult Social Care the authority to execute the outcome of the Annual Refresh Process; namely the acceptance of new prices from existing providers and the acceptance of new providers onto the framework.

3. Summary of issue

Background

- 3.1** The Council has a responsibility to provide care to those adults who need it. As far as possible we provide that care in people's own home. Most of this care is provided by contractors. In order to ensure that we can buy this care as easily and cost effectively as possible we have set up a framework agreement with our current main supplier so that we have known prices for each district. The current 'Live at Home' Framework (LHRL) was implemented in February 2017 to provide a mechanism to place adults requiring long term domiciliary services with good quality providers that can meet their eligible assessed needs. The LHRL has a maximum period of 4 years; 2020/21 will be the final year of this framework.
- 3.2** Over 6,500 Adults receive approximately 118,500 hours of domiciliary support a week (excluding Supported Living). The forecast spend for 2019/20 using the framework is £99.6m. Demand and unit costs are projected to grow over future years predominantly due to initiatives to keep people at home for longer, the changing demography and the increasing cost of care. There are currently 112 providers on the framework. 91% of spend is on daily personal support and 9% is 24 hour live in care and night asleep services.
- 3.3** As at August 2016, Essex County Council (the Council) was experiencing the following issues:
- Significant backlogs - 9,500 hours per week / 866 packages unsourced
 - Substantial unmet need – more than 100 packages
 - Reliance on Provider of Last resort (POLR) to meet ongoing care - >4,000 hours per week
 - Framework wasn't working - >60% sourced on a spot basis, with a rising trajectory of cost as a consequence
 - Persistent issues with hand-backs
 - Relationships with the market were very poor
 - Substantial intervention needed to manage the market and try to secure supply
- 3.4** The 2017 framework set out the following objectives:
- To stabilise the market and offer incentives to encourage growth in areas with capacity, workforce or demographic issues, thereby reducing unmet need
 - To encourage providers onto the Framework and to take packages at framework rates, reducing reliance on spot provision and costs

3.5 The framework has been successful in that current situation is (as at October 2019):

- No backlogs in sourcing
- Almost no unmet need (typically fewer than 10 packages)
- No use of POLR.
- Increase in commissioned hours sourced through the framework from approximately 40% to 70%
- Downward trend in hand backs, albeit with a spike this summer
- Improved payment process
- Relationships with providers have improved
- Competitive rates on the framework when compared to other Local Authorities in the region

Appraisal of current market

3.6 The framework allows for an annual re-opening to allow new providers to join the framework and existing providers to review their prices. The cost of care is forecast to increase significantly in 2020/21. Based on the assumption that National Living Wage increases to £8.67, it is anticipated that providers will see, on average, their costs increase by 8.5%. Any increase in National Living Wage above the £8.67 will have a significant impact on the costs of care.

3.7 The Council has improved the capacity of domiciliary care in the market, but there is a significant ongoing threat of loss of professional carers to other areas such as the retail sector and the NHS. With an increase in demand for carers across Essex, a large percentage of professional carers aged over 55 years, low salaries and poor perceptions of the profession, the Council needs to consider further interventions to ensure continued supply of care.

3.8 Furthermore, due to the uncertainty around future National Living Wage increases (which mean that costs will increase), the potential impact of EU Exit and recent NHS pay increases on workforce capacity, providers may decide to exit the industry entirely or build in these risks so that they increase their prices when deciding whether to join the framework and when accepting new framework or bid for spot placements for individual packages of care.

3.9 In September 2019 the Council and Essex Care Association (ECA), an association of Essex professional care providers, carried out a survey of care professionals. The survey results were that 60% of 392 respondents felt that pay was their biggest frustration. Of those considering leaving the profession, 67% said that they would consider staying if they received an increase in pay.

3.10 This will be the final year of the framework. Discussions are underway with internal stakeholders, providers, other public sector bodies, service users and the carer workforce to consider objectives going forward and how the Council might deliver those through a new approach following the end of the framework in 2021.

The Live at Home Framework

- 3.11** It is proposed to commence the Annual Review Process detailed within the LHRL on 2 December 2019. This will enable existing providers to amend their prices and permit new providers an opportunity to bid for inclusion on the LHRL. The quality of both existing and new providers as a part of this process will be assessed as a part of this process. Any changes or additions that result from this process are intended to take effect on 5 April 2020.
- 3.12** Under the framework providers can choose a rate they will charge for an hour's care in each district within a range set by the Council. The Council can change the range of prices available each time the framework is re-opened.
- 3.13** An analysis of sourced packages, our providers and market behaviours suggests that an increase to the bottom of the pricing matrix from £15.28 to £16.56 and an increase to the top of the pricing matrix from £17.96 to £19.48 (£20.48 for care provided in the Epping Forest district) will ensure that the increase in cost of care is fairly reflected and is likely to encourage providers to remain and enter onto the framework rather than spot contract. Failure to permit providers to bid at prices reflecting the cost of care is likely to result in a loss of key providers from the framework and an increase in the use of spot purchases, where the authority has limited control over rates.
- 3.14** All providers will be required to submit new rates using the revised pricing matrix. The rates will range between £16.56 and £19.48 (£20.48 for Epping) which will be attributed a score. Together with the score achieved for quality, the provider's overall score dictates their new ranking from 5th April 2020. All existing packages will remain at their existing rate unless the rate is under £16.56. Packages below £16.56 will be uplifted to the new minimum rate of £16.56 (except for Night Sleep and 24 Hour Live In Services or Supported Living).
- 3.15** Packages over £16.56 will remain at the current rate and will only change if:
- a) Their existing placement expires, and a new Purchase Order is issued (this may occur when support is required beyond the original expiry date of the placement; for example the initial placement was intended to be temporary – even if there is no change to the Adult's care package; or
 - b) There is a review of the Adult's needs which results in a change to their care package, this can be an increase or decrease, which results in the issue of a new Purchase Order
 - c) Where a new purchase order is issued this will be at the rate (including any Enhanced Rate or Target Supply Area rate) in force at the time the new Purchase Order is issued.

Enhanced Premium Rate

- 3.16** The LHRL contains provisions to the payment of an Enhancement Rate, at ECC's sole discretion. This is paid, for example, when someone has particularly complex needs.

- 3.17** Officers recommend that the Enhancement Rate will remain at £1.88 per hour and will continue to be used by Social Workers to support framework providers to pick up complex packages.

Target Supply Areas (TSAs)

- 3.18** Target Supply Areas (TSAs) are areas within which the Council has difficulty making placements and sourcing domiciliary care for Adults. There are a number of reasons that could create these conditions, including but not limited to, the area being particularly rural or a lack of interest for carers in this area, therefore making it hard for providers to recruit.

- 3.19** The need for a TSA could be demonstrated by:

- (a) an increase in placements made on a spot basis, outside of the Live at Home Framework;
- (b) The number of placements terminated by providers and 'handed back' to the Council; and
- (c) The number of placements refused by providers in the area.

- 3.20** In an effort to address this, the Council introduced TSAs and a 'TSA Rate' when the Live at Home Framework commenced in 2016 – the TSA Rate adds a premium (chosen from a matrix of prices, as detailed below in paragraph 3.25) for areas designated as TSA. The aim of the TSA rate is to provide additional resources to providers to assist with the issues that lead to a difficulty in sourcing care.

- 3.21** TSAs were introduced with the aim of increasing supply to areas where there have been issues with market capacity. They are designed to encourage Framework providers to move into wards and build sustainable rounds where, historically, there has been a reliance on comparatively more expensive spot provision. A review of the TSAs was undertaken which involved a review of:

- a) sourcing activity;
- b) placement data;
- c) trends between placements made using the framework and placements made outside of the framework on a spot basis;
- d) any unmet need for individuals awaiting a placement;
- e) any placements terminated by the providers and "handed back" to the Council;
- f) identifying ward boundary changes; and
- g) soft intelligence.

Changes to the TSAs and the reasons for the changes are detailed in paragraphs 3.19 – 3.22. The changes are proposed to ensure TSAs are used effectively. If approved, the changes will take effect from the 5th April 2020.

- 3.22** The wards will be changed to reflect changes to district ward boundaries made after the commencement of the LHRL.
- 3.23** It is proposed the TSAs are changed to reflect evidenced market pressures when sourcing within specific areas. This includes the removal of TSAs in some areas where market capacity has improved and been sustained and defining new TSAs in areas that have proved hard to source.
- 3.24** It is advised that existing packages sourced with a TSA rate applied will remain at the agreed existing rate until:
- a) an existing placement expires, and a new Purchase Order is issued – even if there is no change to the Adult's care package; or
 - b) There is a review of the Adult's needs which results in a change to their care package, this can be an increase or decrease, which results in the issue of a new Purchase Order
- 3.25** Framework providers will be required to submit a TSA rate from a matrix of prices as part of their tender submission for each district they wish to operate in, regardless of whether they plan to pick up a package within a TSA. This is to encourage providers to move into TSA areas when operating in that district.

The Care Market

- 3.26** For the reasons set out above, the Council is confident that the care market in Essex is operating in a sustainable way. 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. In discharging this duty the Council must have regard to the following in particular.
- (a) the need to ensure that the authority has, and makes available, information about the providers of services for meeting care and support needs and the types of services they provide;
 - (b) the need to ensure that it is aware of current and likely future demand for such services and to consider how providers might meet that demand;
 - (c) the importance of enabling adults with needs for care and support, and carers with needs for support, who wish to do so to participate in work, education or training;
 - (d) the importance of ensuring the sustainability of the market (in circumstances where it is operating effectively as well as in circumstances where it is not);
 - (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;

- (f) the importance of fostering a workforce whose members are able to ensure the delivery of high quality services (because, for example, they have relevant skills and appropriate working conditions).

3.27 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 there are currently 112 providers on the Framework and there has been a significant improvement in the number of placements made using the framework, rather than on a spot basis;
- (c) the importance of ensuring the sustainability of the market – the Council does this by monitoring the performance of providers and the inclusion of Target Supply Areas to address the problems that lead to difficulty sourcing care in those areas designated as a TSA.
- (d) 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 Annual Review Process which monitors the quality of the services delivered by providers, which in turn has an impact on their ranking on the Live at Home Ranked Lists;
- (e) the Council works hard to ensure that there is a high-quality work force by training and recruitment initiatives as outlined above.

4 Options

4.1 Minimum Rates – for all packages. An options appraisal of whether a price increase is required or necessary on the pricing matrix from April 2020 was completed. The options considered were:

1. Do nothing and retain all rates at their current levels, with a minimum price of £15.28 per hour for standard care and £11.76 for 24 hour/night asleep
2. Uplift standard care prices by 5% (same uplift applied as last year) and keep 24 hour/night asleep at £11.76 (because providers tell us they can continue to deliver at this rate. There are 13 packages of this nature countywide which will all be reviewed before the new contract in 2021) which would increase the minimum rate by £0.76 and change the bottom of the pricing matrix to £16.04 per hour

3. Uplift all prices by the predicted cost of care increase, which would increase the minimum rate by 8.5% (up by £1.28 to £16.56 per hour) and keep the 24 hour and night asleep rate at £11.76 per hour
- 4.2 Option 3 is the recommended option, pending the high court ruling around night asleep rates due in February 2020. This will decide if the National Minimum Wage (NMW) applies to night shift care staff for the time they spend asleep and are available at work. This proposal seeks to retain the current night sleep rate (£11.76) until a decision is made. If NMW is the agreed outcome, the Council can review its spend in this area.
- 4.3 **Top of pricing Matrices;** an options appraisal was completed on whether to increase the top end of the pricing matrices. The options were:
 - a) Retain the current top end of the pricing matrix at £17.96 per hour (£18.88 for Epping)
 - b) Increase the top end of the pricing matrix by 5% to £18.84 per hour (£19.84 for Epping)
 - c) Increase the top end of the pricing matrix by 8.5% to £19.48 (£20.48 for Epping).
- 4.4 Option c is the recommended option. This will increase the top of the pricing matrix to £19.48 and increase the top rate in Epping to £20.48 to factor in the price differential as a result of London Living Wage.
- 4.5 Recommendations 3 and c above give a clear message to the market that we are realistically supporting the predicted inflation pressures and are investing in the market to secure the workforce and quality of care required as we move towards a new model in 2021. The other options will threaten the stability and viability of the market and are highly likely to cause a significant reduction in capacity due to staff leaving the industry and provider businesses becoming unviable. This could place vulnerable adults at serious risk.

5 Next Steps

Procurement of the Live at Home Framework

- 5.1 From 2nd December 2019, it is intended that existing framework providers will be able to submit a new price to be applied from 5th April 2020. In the event providers do not submit new prices from this table for each of the Adult Service Providers' Branch, the Service Provider will be suspended from the framework until its expiry.
- 5.2 Providers who are not on the framework will have the opportunity to join the LHRL. New providers will submit their tender through the Council's procurement system. Any tender submissions from New Entrants will be evaluated in accordance with the evaluation criteria used for the original procurement. The New Entrants' overall score will then be ranked with existing service providers overall scores calculated in accordance with the LHRL Annual Review Process. The highest overall score shall be at the top of the relevant Live at Home Ranked List and then ranked in descending order. New and existing providers will be

evaluated on the same basis as the original evaluation criteria, with the exception that existing providers' quarterly performance score will be used alongside their annual pricing submission.

5.3 All providers will be notified of the outcome of the Annual Review.

6 Issues for consideration

6.1 Consideration of the potential risks as a result of the Annual Review Process, appropriate measures have been taken to mitigate these risks where possible. The areas considered are:

- a) Successful providers bid higher than the forecasted rates
- b) Unsuccessful providers exit the market
- c) Unsuccessful providers consolidate their business either focussing on a small geographic area or their private market
- d) Multiple large Providers want to handback their packages
- e) Multiple large Providers want their existing packages reviewed.
- f) A Provider chooses not to sign their contract despite being successful in gaining a place on the list.
- g) Existing spot Providers are not successful on the Framework.
- h) Spot providers who are successful in joining the framework want their spot rates uplifted to their framework rates

6.2 Additional staff may be required to manage relationships with Providers who are successful on the Live at Home Framework and for those who were unsuccessful. The Commercial Team will be keeping this under review and will plan resources appropriately.

6.3 Additional work will be required to update rates and provider information which is managed within our Social Care Case Management systems.

7 Financial implications

7.1 Based on August 2019 forecast data ECC expects to spend £101.1m in 2020/21 on long term domiciliary care packages (excluding Supported Living and Extra Care). This is based on current placements and assumptions around growth on both spot and the Live at Home Framework.

7.2 The recommendation (set out in section 4) is to increase the prices on the Live at Home pricing matrix by 8.5% for all care types apart from 24 hour care and night sleeping, which will remain at the current rate. This aims to cover the estimated increase in the cost of care to providers (mainly due to the expected increase in National Living Wage).

7.3 Personal Care (including night awake carers) accounts for 91% of long term domiciliary packages; 24 hour and night sleeping packages make up the remaining 9% of spend. Therefore, applying the uplift of 8.5% to personal care only means that the overall impact, after spot packages are uplifted to the minimum rate and churn estimates are applied, is 5%

- 7.4** The financial modelling assumes that rates will only be automatically uplifted where they are below the minimum rate (for the recommended option this would cost £930,000 for current packages). Where a package is re-purchased it has been assumed that providers will choose the framework price on the same scale on the matrix as current, albeit at the revised rate. There is a risk that providers may choose higher price points on the framework and that spot prices may increase.
- 7.5** The financial modelling assumes the current split of hours paid for through the Live at Home framework and spot arrangements will be maintained.
- 7.6** The current working assumption in the Medium Term Resourcing Strategy (MTRS) includes an allowance for annual price increases; the impact of the recommendation in this report, estimated to cost between £5m to £7.3m. However, there is a risk that the exit from the European Union could further increase prices.
- 7.7** The final 2020/21 budget will be based on data for October 2019 which may revise the volume assumptions and therefore the total budget.
- 7.8** Consideration must be given to the impact of churn within the market as existing packages expire and new packages are contracted either at the new framework rates or at spot. The financial modelling assumes that the churn rates will not change radically between 2019/20 and 2020/21.
- 7.9** It should be noted that the cost of domiciliary care activity covered by this report will depend on the actual split of framework and spot provision. Estimates in this report are based on current market insight from Procurement but there is a risk that prices may be higher as spot prices are inherently volatile and the balance of spot to framework placements could change. The spend and placement types will be regularly reviewed during the year to ensure any issues are identified and to ensure timely and appropriate mitigations can be put in place.

8 Legal implications

- 8.1** The Live at Home Framework Agreement contains provisions relating to the Annual Review Process (including the admission of new providers), the possible changes to pricing matrices and Target Supply Areas. All proposals within this report are permitted under the terms of the Live at Home Framework Agreement.
- 8.2** The Annual Review Process will need to permit new providers the same length of time to respond to the invitation to tender, as was afforded to those bidding in 2016 to ensure consistency, transparency and equal treatment.
- 8.3** The removal of a TSA will not adversely affect individuals receiving care in these areas. The removal of the TSA rate shall only arise in the circumstances outlined in paragraph 3.22 and 3.23 and does not pertain to the level or needs or quality of service provided.

9 Equality and Diversity implications

9.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Equality Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- Advance equality of opportunity between people who share a protected characteristic and those who do not.

9.2 Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

9.3 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).

9.4 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.

9.5 In line with the Care Act 2014, the need for Providers to respect the cultural and religious beliefs of any of those in receipt of the service and to engage with these cultural and religious beliefs when achieving their outcomes is embedded into the contract documents.

9.6 There are no further Equality and Diversity implications which would result from the awards of these contracts.

10 List of appendices

Appendix A – Equality Impact Assessment
Appendix B – 2020/21 Pricing Matrices
Confidential Appendix

11 List of Background papers

Framework agreements

Document comparison by Workshare Compare on 29 October 2019 10:58:24

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Document 1 ID	file:///T:/Commercial Team/a.Team Members/Rebecca Turner/Projects/Live at Home incl. Mears/Refresh 2019/Cabinet Paper - LAH YR4 - MO Approved 28.10.2019.docx
Description	Cabinet Paper - LAH YR4 - MO Approved 28.10.2019
Document 2 ID	file:///T:/Commercial Team/a.Team Members/Rebecca Turner/Projects/Live at Home incl. Mears/Refresh 2019/Cabinet Paper - LAH YR4 - Cllr Spence Amends.docx
Description	Cabinet Paper - LAH YR4 - Cllr Spence Amends
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