

Forward Plan reference number: Not applicable

Report title: <i>Extension of the Live at Home framework</i>	
Report to: Nick Presmeg, Executive Director for Adult Social Care	
Report author: Moira McGrath, Director, Commissioning (Adult Social Care); Steve Ede, Head of Procurement	
Date: 23 September 2020	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To seek approval to extend the current Live at Home framework agreement to 3rd April 2021 and for the current pricing arrangements to continue up to the commencement of the new framework.

2. Recommendations

- 2.1 Agree to extend the current Live at Home Framework to 3 April 2021 (a period of approximately 8 weeks) and to commence the new Live at Home framework on 4th April 2021.
- 2.2 Continue with the current framework pricing arrangements until 4th April 2021.

3. Summary of issue

- 3.1 On 15th September 2020 Cabinet authorised the procurement of a new Live at Home framework for the provision of long-term domiciliary care and support services, to commence on 11th February 2021.
- 3.2 Cabinet also delegated authority to the Executive Director of Adult Social Care, in consultation with the Cabinet Member for Health and Adult Social Care, to extend the current framework agreement by a period of up to 6 months and to review the interim price arrangements, should the Covid-19 pandemic impact on the market's ability to respond to the tender or delay the procurement process.
- 3.3 The Essex Care Association has written to the Council on behalf of its members, expressing concerns around providers' ability to respond to the tender due to a range of issues including staff fatigue and pressures around preparing for a second wave of Covid-19. However, other providers have fed back that they will have available resource to respond to the tender opportunity.

4. Options

4.1 Option 1: Do nothing and commence the new framework on 12 February 2021

The advantage of this option is that the bid submission process would end prior to the peak of the anticipated spike in the pandemic and the winter pressures period. However, the planned timeframe for providers to submit bids is one month which creates pressure on providers' resources and may disadvantage any providers that need to assign resource to respond to other issues that may arise, including planning for and supporting a second wave.

4.2 Option 2: Extend the current framework to 3 April 2021 without changing prices (Recommended option)

This would allow an extended period for providers to submit a response to the tender, reducing the risk that providers may not bid at all or that bids are of poor quality due to a lack of time to fully respond to the opportunity. The short extension therefore increases the likelihood of achieving the objective of creating a framework with providers of the best quality. Further, a short extension also prevents the risk of damaging the relationship with a proportion of the market if the Council does not take into account the concerns raised by the market's representative body, with some form of action or change to the planned procurement. It is not recommended to amend framework prices as a range of financial support has been offered to providers and is likely to continue across the winter period. Also, the impact of the expected ongoing cost pressure to providers of the predicted National Living Wage increase will not impact providers until the new financial year.

4.3 Option 3: Extend the current framework by six months and uplift the minimum hourly rates with effect from 4 April 2021

This would allow providers to respond to the tender in a time after winter pressure considerations. However, this option is not recommended as the future demands on providers caused by the Covid-19 pandemic are unknown and the risk of providers not having the capacity to submit quality tender responses may continue for a period of time. In addition, applying a blanket uplift to prices may result in some providers not remaining financially viable or sustainable through not having the opportunity to select a price that is right for their financial position.

5. Not Used

6. Issues for consideration

6.1 Financial implications

6.1.1 The 2020/21 forecast assumes the current framework continues until the end of the financial year as the previous option to go live in February did not create a material change to total cost. Therefore extending the framework to April 2021 will not impact this position. The 2021/22 impact will not change from that set out in the original cabinet paper and so there are no changes to budget or forecast required by implementing this decision

6.2 Legal implications

6.2.1 Regulation 33(4) of the Public Contracts Regulations 2015 (the “Regulations”) states that Framework Agreements must not be concluded for a period longer than 4 years. However, the current Live at Home Framework Agreement relates to the provision of services categorised as “Light Touch” within Regulations. Light Touch Services are not subject to the full rigour of the Regulations, however it is not clear whether the restriction on the duration of framework agreement applies to Light Touch Services.

6.2.2 Officers have recommended a short period of extension, to increase the time within which providers are able to submit their tender responses. This has been recommended at the request of a proportion of the market wishing to bid for the opportunity to be included on the new Live at Home Framework. All potential bidders shall benefit from the extended period, and it is unlikely to create a competitive advantage.

6.2.3 The Executive Director for Adult Social Care has been duly authorised to agree to an extension, in consultation with the Cabinet Member for Health and Adult Social Care, by way of the decision taken by the Cabinet on 15th September 2020.

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

Appendix A – Equality impact assessment

9. List of Background papers

None

I approve the above recommendations set out above for the reasons set out in the report. Nick Presmeg, Executive Director for Adult Social Care 	Date
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In consultation with:

Role	Date
Councillor John Spence, Cabinet Member for Social Care	
Head of Finance, Adults Laura Davis-Hughes	24 Sept 20
Essex Legal Services Rebecca Turner	24 Sept 20