Forward Plan Reference Number: FP/403/05/22

Report title: Support for Adult Social Care supply chain pressures caused by the rising CPI and fuel costs	
Report to: Councillor John Spence, Cabinet Member for Adult Social Care and Health and Councillor Christopher Whitbread, Cabinet Member for Finance, Resources and Corporate Affairs	
Report author: Moira McGrath, Director, Strategic Commissioning	
Date: 15 June 2022	**For:** Decision
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County Divisions affected: All Essex	

1. Everyone's Essex

1.1. Everyone's Essex sets out the strategic aim of health, wellbeing and independence for all ages. Within that aim is a commitment to helping individuals to live free from abuse and neglect and enabling independence through access to an effective and stable social care market with good quality support available in all areas of provision, including both care homes and domiciliary care.

1.2. Essex County Council has made an ongoing series of interventions to support the market, in recognition of the inflationary challenge experienced by providers. This report is the latest in a line of such decisions and requests approval to put in place measures to support the Adult Social Care supply chain to withstand the unexpected pressures caused by rising inflation and fuel costs, compounded by the crisis in the Ukraine, which had not been foreseen in previous uplifts and budgeting.

1.3. It is expected that these measures will ensure continuity of support for vulnerable adults, via assisting with workforce and supplier stability. They are part of a package of measures currently being taken forward, including additional non-recurrent support in recognition of ongoing challenges around workforce retention and testing.

2. Recommendations

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

2.1. Agree to increase the providers' selected rates on the Integrated Residential and Nursing (IRN) Framework Agreement from 1 July 2022 so that each price is increased by 0.75%. These prices will be applied to all placements made on or after 1 July 2022.

2.2. Agree to increase, from 1 July 2022, the weekly rate of all care home placements in existence on 1 July, delivered via the IRN Framework Agreement or by a spot purchase agreement for placements within the administrative area of Essex, by 0.75% for residential and 0.75% for nursing, capped at £690.90 per week for residential and £841.26 per week for nursing placements.

2.3. Agree to vary the IRN Framework Agreement to permit the changes set out in recommendation 2.1 above.

2.4. Agree to increase the weekly rate for packages commissioned within Adults with Disability (AWD) and Mental Health residential settings by a further 0.83% in addition to the uplift strategy approved previously by the Cabinet Member for Adult Social Care and Health in decision FP/297/02/22 taken on 13 April 2022, to commence from 1 July 2022.

2.5. Agree to provide a subsidy to contracted providers of domiciliary care, which includes the Live at Home Framework, Spot Purchased domiciliary care and In Lieu of Reablement contracts, in respect of fuel increases by uplifting payments by 12p per hour, starting from the 4-week payment period following decision approval, expected to be 26 June 2022, until 1 April 2023, basing payments on commissioned hours on a 4-weekly basis, and to be paid while fuel costs exceed the price in November 2021 plus 5%..

Recommendation for Councillor Christopher Whitbread, Cabinet Member for Finance Resources and Corporate Affairs

2.6. Agree to draw down £510,000 from the Adults Risk Reserve to fund the cost of the increased payments to providers in respect of the subsidy for fuel price inflation.

3. Background and Proposal

3.1. The current situation in Ukraine has exacerbated existing supply chain issues and inflationary pressures. The position was already volatile coming out of the COVID-19 pandemic, with an imbalance between supply and demand across multiple commodity items such as steel and timber and, particularly, labour, fuelling shortage of supply and inflation across markets. Fuel costs have also been driven higher in recent months, causing additional pressure which could not have been foreseen at the time budget plans for 2022-23 were made.

3.2. For some social care services, the impact of the price increases factored into the CPI (including the cost of energy and food) is particularly high. These are predominantly those that are an accommodation-based service, where those costs fall on the supplier (for example care home provision). Other accommodation options (e.g. supported housing, extra care) have different models, where the accommodation element is paid for by the service user through a tenancy with the Council funding the care delivery element. In these services, suppliers are less directly exposed to rising CPI rates.

3.3. Other social care services are more directly affected by rises in the cost of fuel. In particular, domiciliary care providers deliver support for people in their own home through the operation of care ‘rounds’ in local areas. This means that travel expenditure has to be factored into their costs and business models.

3.4. It is proposed that market support is offered to mitigate the impact of the rise in CPI and the increase in the cost of fuel. As they affect different segments of the social care market, separate summaries for each market are set out below.

Inflation and the Care Home Market

3.5. The recent residential and nursing care uplifts (approved by Cabinet in March 2022) were non-contractual but allowable under the terms of the contract. They have been based upon lower assumptions around CPI (3.7% against February levels of 6.2%), using cost of care models in adult residential services.

3.6. It is now proposed that higher CPI figures are used to calculate rate uplifts in the following categories and that prices are amended accordingly:

3.6.1. Older People Residential & Nursing. The higher figure of 6.2% CPI should be applied to the blended rates for all existing placements and to new framework rates, but not to new spot placements, given that providers are able to factor inflationary costs into pricing. This equates to a further 0.75% rate increase for both residential and nursing placements.

3.6.2. Adults With Disability and Mental Health Residential. Uplift based on 6.2% CPI and the 6.62% increase to the National Living Wage. This is then weighted, with 65% of the increase being aligned to the NLW increase, and 35% to the increase in CPI. The total % increase is therefore calculated to be 7.17%, including the impact of National Insurance increases within the year.

3.7. The February CPI rate is recommended because it reflects an accurate point in time for a change that is to be put into effect from July 2022 (the previous uplifts agreed at Cabinet in February were priced in October 2021, five months before the effective date). Providers have also had recent opportunity to choose new rates through this annual refresh process between 21 February 2022 and 28 March 2022 and on average have moved their rates higher, meaning the exposure to even greater CPI rates has been partly mitigated.

3.8. The process for implementing this change will include communication to full cost payers (people for whom the council arranges care but who self-fund the whole cost of their residential care package) explaining what the additional increase is for. This is likely to affect approximately 360 adults.

Fuel Costs and the Domiciliary Care Market

3.9. Domiciliary care markets in Essex are under pressure as a result of the COVID-19 pandemic. Rising demand and workforce shortages have led to it being harder to source care in a timely way in some areas of the county. The Council has responded via a number of mechanisms, including the transfer of government COVID-19 funds (now ceased), incentive payments and measures to support the recruitment and retention of staff.

3.10. Fuel prices have also seen a sharp increase since the start of the conflict in Ukraine. The cost of a litre of petrol increased by 17p per litre in the month after the conflict commenced, and diesel by 25p per litre. Current rates average £1.62p per litre for unleaded petrol and £1.76p per litre for diesel (as of Monday 9 May 2022). In comparison to fuel prices at the time budget assumptions were made in November 2021, unleaded petrol is 20p per litre higher than the average price in November 2021 and diesel 28p per litre higher.

3.11. To prevent the rising cost of fuel adding further distress to domiciliary care suppliers, uplifts to hourly rates are proposed. There is potential for fuel prices to fluctuate and reduce over time; this increase will therefore be temporary while the price of fuel remains above the November 2021 price per litre plus 5% (using BEIS government weekly price statistics) and will be in place for the period starting from the 4-week payment period following decision approval, expected to be 26 June 2022, and running until 1 April 2023. Table 1, below, sets out the baseline and tolerances:

Table 1:

	Pump price in pence/litre ultra low sulphur petrol	**Pump price in pence/litre ultra low sulphur diesel**
Average November 2021	145.34	149.15
5% tolerance	152.61	156.61

3.12. A refresh of the Live at Home domiciliary framework was approved at Cabinet in February and gave suppliers the opportunity to select a price from the amended pricing matrices. As part of the changes to the pricing matrices, some inflationary increases would have been anticipated, both in the new prices on the matrices and in the price selected by the providers. Therefore, an increase of 12p per hour in lieu of subsequent fuel price inflation, to be paid for the period expected to be 26 June 2022 until 1 April 2023, and subject to the conditions set out in 3.11, represents a bridge between costs which could have been reasonably anticipated and cost increase acceleration as a result of global events.

4. Links to our Strategic Ambitions

4.1. This report links to the following aims in the Essex Vision:

- Enjoy life into old age

- Strengthen communities through participation

4.2. Approving the recommendations in this report will have a neutral impact on the Council's ambition to be net carbon neutral by 2030.

4.3. This links to the following strategic priorities in the emerging Organisational Strategy 'Everyone's Essex':
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- A strong, inclusive and sustainable economy
- Health wellbeing and independence for all ages

5. Options

5.1. **Apply market support uplifts as set out in the report, in order to mitigate supply chain pressures in the care home and domiciliary care markets (recommended)**
This is the recommended option, as it will mitigate the impact of rising CPI on care home providers, ensuring continuity of supply and the best available option for managing the cost of inflationary pressure in the market. It will also help protect stability and recovery in the domiciliary care market through a period of volatility in the price of fuel.

5.2. **Do nothing (not recommended)**
This option is not recommended as it risks a rising proportion of care home placements being made via the SPOT placement outside of the Framework Agreement, as framework providers will be less willing to accommodate people at existing rates. This would have the effect of escalating prices and driving volatility in the care home market. Similarly, it will exacerbate pressures in the domiciliary care market, where the Council has already experienced supply issues and 'hard to source' locations.

6. Issues for Consideration

6.1. **Financial implications**

6.1.1. The estimated additional cost in 2022/23 of the recommended further uplifts to the Adult Social Care residential market is £1m. This is based on updating the blended cost of care calculation using 6.2% CPI compared with the 3.7% forecast previously used to determine the agreed market uplifts from 1 July 2022. The marginal impact by care category is detailed below.

Category	2022/23 Marginal Cost £000
Older People Residential	455
Older People Nursing	80
AWD and MH Residential	502
Total ASC	**1,037**

6.1.2. The increased cost will be managed within the overall Adult Social Care budget. Additional funding was set aside for market pressures in 2022/23 and in year the amount will be funded from that allocation.

6.1.3. It should be noted that IRN Framework providers have chosen new prices in 2022 based on the previously approved pricing matrices, and that their selected price may have been higher than if these proposed higher CPI-adjusted rates were available. Indeed, the IRN tender responses have shown that the average position on the pricing matrix has increased, with more moving to the top rate for their geographical area.

6.1.4. It is expected that approximately 360 adults who already meet the full cost of their care will cover the uplift in the cost of their package through increased client contributions. This increased charge would begin after an appropriate notice period, which could result in a loss of income until the change in client charges commence. This would be an estimated £7,000 if there were a one month delay.

6.1.5. Residential uplifts will have a recurrent impact, increasing baseline expenditure and therefore MTRS requirements in future years. However, if the increased inflationary pressures are not addressed, there is the risk that framework providers will be unwilling or unable to accommodate adults at the current rates, leading to escalating prices and volumes in the spot market.

6.1.6. The estimated additional cost for the fuel-related payments to providers is £13,000 per week, approximately £510,000 for 9 months until 31 March 2023. Due to the non-recurrent nature of support, it is recommended that this element should be funded from the Adults Risk Reserve.

6.2. **Legal implications**

6.2.1. The proposals set out in this report will require a variation to the IRN Framework to increase the weekly rates and permit the uplift to existing placements made via the IRN Framework.

6.2.2. Any change to the rates in the IRN Framework Agreement must comply with regulation 72 of the Public Contract Regulations 2015 and be carried out using the change control mechanism in the Framework Agreement.

6.2.3. The increase in rates on contracts for existing placements would be a modification to those contracts during their term, even where they are temporary in nature. As is the case with the time-limited hourly increase of the domiciliary care contracts to assist with rising fuel pressures, ECC is able to modify the contract where regulation 72 of the Procurement Regulations permits. This will need to be considered on an individual contract basis before such uplift is agreed.

6.2.4. There is a risk that introducing a blanket pricing uplift for new placements and existing placements results in a precedent for future refreshes of the IRN

Framework. Whilst this is not likely to create legal difficulties, it may create expectations in the market.

6.2.5. These proposed payments are not required to be made by law or under the terms of any contracts and therefore could amount to a gratuitous payment and potentially a subsidy. The European Union (Future Relationship) Act 2020 places the ECC in a very similar position to that in which it would have been had the Council remained in the EU. However, subsidies to offset the harm done by a global pandemic are likely to be lawful under the subsidy control regime. The staffing difficulties at present can be attributed, at least in part, to the destabilising influence of the pandemic, although no doubt this is not the sole cause. These subsidies, in addition to the ones already agreed and awarded, will need to be recorded on the BEIS website.

6.2.6. Generally, the Adult Social Care service would be a service of public economic interest (SPEI). The relevant exemption for small amounts of financial assistance for the recommendations set out in this report is the subsidy threshold of approximately £790,000 (equivalent to 750,000 Special Drawing Rights) over a 3-year period. So long as each provider has not received over the threshold for SPEI (cumulative across all government sources) over a 3-year period, then the proposed uplift will likely be considered lawful. Relevant enquiries should be made so that ECC is assured that a) the uplift will be used for the purpose intended and b) the uplift would not put the provider in excess of the SPEI small amounts of financial assistance threshold.

6.2.7. The Council can only be confident that such price increases will result in encouraging sustainable retention and recruitment approaches if this is a contractual requirement of the variations.

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 Equalities Comprehensive Impact Assessment indicates that there are no adverse implications from the decision being proposed.

8. List of Appendices

ECIA (Equalities Comprehensive Impact Assessment)

9. List of background papers

None

I approve the above recommendations in relation to my Portfolio set out above for the reasons set out in the report. **Councillor John Spence Cabinet Member for Adult Social Care and Health**	**Date** **22.06.22**

I approve the above recommendations in relation to my Portfolio set out above for the reasons set out in the report. **Councillor Christopher Whitbread Cabinet Member for Finance, Resources and Corporate Affairs**	**Date** **24.06.22**

In consultation with:

Role	**Date**
Nick Presmeg, Executive Director Adult Social Care	22.06.2022
Executive Director, Corporate Services (S151 Officer) **Stephanie Mitchener on behalf of] Nicole Wood**	22/06/2022
Director, Legal and Assurance (Monitoring Officer) **Susan Moussa on behalf of Paul Turner**	15/06/202/2/