

Forward Plan reference number: FP/529/09/19

Report title: To seek a Cabinet member approval to go to market to procure services In Lieu of Reablement	
Report to: Cllr John Spence, Cabinet member for Health & Adult Social Care	
Report author: Dale Evans, Head of Strategic Commissioning & Policy	
Date: 18th October 2019	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To seek approval from the Cabinet Member to procure In Lieu of Reablement services.
- 1.2 In Lieu of Reablement Services are services offered to those eligible for a non-chargeable enabling / reabling service, usually provided upon discharge from hospital; however, there is not enough capacity with the service provided by Essex Cares Ltd (ECL) and an alternative provider is required.

2. Recommendations

- 2.1 To agree to undertake a competitive procurement process to seek providers of services In Lieu of Reablement commencing in February 2020 and ending in May 2021 with an option to extend for a further 12-month period.
- 2.2 To delegate the authority to award the contract(s) following completion of the procurement process to the Executive Director for Adult Social Care.

3. Summary of issue

- 3.1 In December 2018, the Allied Healthcare contract between Essex County Council (the Council) and Allied Healthcare Services for the provision of Reablement Services in Essex was terminated by the Council, owing to Allied Healthcare's financial instability.
- 3.2 The Council are obliged to provide a Reablement service and a decision was taken by the Cabinet Member for Health and Adult Social Care in December 2018 to award a contract for the provision of Reablement Services in Essex to ECL.
- 3.3 When ECL took over the contract from Allied Healthcare, there was a significant shortfall in capacity that could be delivered by ECL.

- 3.4 In response to this, the Council put contracts in place with 10 'In Lieu' of Reablement providers covering the 12 different districts of Essex for the provision of services "In Lieu" of a reablement service from ECL.
- 3.5 The 10 Current In Lieu of Reablement Contracts expire on 3rd February 2020.
- 3.6 Officers have been working with ECL to increase capacity within the services delivered by ECL. However, ECL will not be able to meet the full demand of the service with effect from 4th February 2020 and therefore officers are seeking authority to procure replacement Reablement in Lieu services to commence in February 2020 to ensure demand can be met.
- 3.7 The aim of the "In Lieu" services is to mirror that of the main Reablement service delivered by Essex Cares Limited (ECL), rather than just providing Domiciliary Care. In Lieu providers will be required to work with individuals to achieve their goals and maximise their independence as required by the Reablement Contract between the Council and Essex Cares Limited (ECL).
- 3.8 The provision of "In Lieu" Services until May 2021 will allow for a service redesign for the provision of all intermediate care services and the contracts for the "In Lieu" service will expire at the same time as the contract with Essex Cares Limited (ECL) for the provision of Reablement Services, ensuring that the newly designed service can commence without overlap.

4. Options

4.1 Do nothing – let current In Lieu of Reablement contracts expire and commission any shortfall from the Long-Term Care market:

This is not the recommended approach for the following reasons: The speed in which care can be sourced and started via the Service Placement Team (SPT) is a challenge and is not always conducive to support urgent Hospital discharges and adults deemed to be 'at risk' in the community. It does not guarantee capacity. It may reduce capacity in the long-term domiciliary care market. Outcomes being achieved for adults who access this provision are significantly lower than those being achieved via "In Lieu" Services.

4.2 Do nothing - let the in Lieu of Reablement contracts expire and request Essex Cares Limited (ECL) increase the capacity of the main reablement contract:

This is not the recommended option as Essex Cares Limited (ECL) have to date, been unable to ramp up their services to meet all of the demand. The use of subcontractors whilst increasing their capacity could increase the risk of an unstable and inconsistent service.

4.3 Go out to market for an OJEU compliant procurement for a provider / providers to deliver In Lieu of Reablement Services alongside our existing Reablement offer (Recommended):

This is the preferred option because it will ensure that there is sufficient capacity within to meet demands and to ensure that individuals are achieving the best possible outcomes for living independently. It will ensure consistency in the provision of a stabilised market.

Proposed Procurement Approach

- 4.4 It is proposed to run a single stage procurement process conducted in accordance with the Light Touch Regime within the Public Contracts Regulations 2015 to award a contract for 15 months (with the option to extend for a further 12 months) to a single provider for each of the 5 geographic lots.
- 4.5 The contract will block purchase 100% of the expected annual activity levels for each of the 5 lots, which are detailed in paragraph 5.1.1 below. Block purchasing requires the Council to pay for 100% of the expected annual capacity (as stipulated in the contracts) regardless of whether the full 100% is utilised – however the contract will contain provisions that enable the Council to adjust the expected annual capacity to increase or decrease the expected annual capacity in the event that the service is over or underutilised. This approach offers the following benefits:
- a) Secures supply, especially during winter resilience periods.
 - b) Delivers greater economies of scale;
 - c) Improves potential staff recruitment, retention and career progression;
 - d) Increases the ability to provide a rapid response service and respond to crisis situations should this be required.
- 4.6 The Public Contracts Regulation 2015 requires Local Authorities to award contracts based to the bidder with the Most Economically Advantageous Tender (MEAT). The contracts will be awarded to the bidders that achieve the highest overall score using a Price/Quality split of 60:40. However to ensure stability across the county, no provider is able to win more than 2 Lots. The MEAT criteria has been determined based on the following:
- a) There is a highly developed specification in place for this service however suppliers will be required to demonstrate how they will deliver the required outcomes. As such a significant weighting is associated with Quality to allow this differentiation.
 - b) Providers will select their price from a matrix to ensure that costs are contained within the financial envelope therefore there is no risk of price escalation.

- c) Different weightings have been modelled to test the impact of the result of the tender using the scores from the previous tender. The switch from 70/30 to 60/40 was significant enough to make a difference to the result.
- d) The tender will test what the wider market can deliver in terms of an enablement service focussed on getting the adult back to their optimum level of independence following a period of crisis.

5. Issues for consideration

5.1 Financial implications

5.1.1 The total value of the 15-month procurement (3rd Feb 2020 – 3rd May 2021) is estimated to be £4.1m. This is calculated based on the current demand (the existing block provision, plus services sourced directly with the long term care market, less the projected 'ramp up' that Essex Cares Ltd will achieve before the implementation date) and the average hourly rate currently paid for the 'In Lieu of Reablement' block arrangement. The basis and yearly profile are outlined in the tables below:

Locality	Recommend- ed Block Hrs per Week	Equivalent Starts per Week	Weekly Cost £
North	900	19	18,225
Mid	400	8	8,100
South West	700	11	14,175
South East	850	16	17,213
West	300	8	6,075
Total	3,150		63,788

Estimated hourly rate = £20.25 (based on average price for current ILOR block arrangements)

Locality	2019/20 £	2020/21 £	2021/22 £	Total £
North	151,007	950,304	83,314	1,184,625
Mid	67,114	422,357	37,029	526,500
South West	117,450	739,125	64,800	921,375
South East	142,618	897,509	78,686	1,118,813
West	50,336	316,768	27,771	394,875
Total	528,525	3,326,063	291,600	4,146,188

5.1.2 The £4.1m estimate is the maximum cost assuming current 'In Lieu of Reablement' demand above the main Reablement service is sustained. The recommended option is to procure a flexible contract that allows the Council to reduce the volume in line with ECL's capability to 'ramp up' their reablement activity and meet the demand initially.

- 5.1.3 The block purchasing arrangement will mean the Council is required to pay 100% of the contract value regardless of utilisation, emphasising the importance of close contract management in delivering value for money. A defined notice period of 28 days will be built into the contract to allow the volume purchased to be adjusted if contracted capacity is not being delivered. The payment schedule will also include a monthly reconciliation to reduce the block value should a provider decline a referral when capacity was available. This flexibility will assist in the control of the overall Reablement expenditure throughout the life of the contract.
- 5.1.4 The budget for 2019/20 does not specifically allow for an 'In Lieu of Reablement' service. The current block arrangement is funded through the Reablement budget within the Better Care Fund, with any spend in excess of the allocation charged against Winter Pressures through the BCF. The proposed procurement will continue this arrangement for the period that lies within 2019/20.
- 5.1.5 The current Medium-Term Resourcing Strategy similarly makes no specific provision for 'In Lieu of Reablement' in 2020/21. In addition, there is unlikely to be any residual balance in the Better Care Fund Reablement budget due to the additional costs for the 'ramp up' of the ECL contract. Block levels are expected to reduce over the life of the contract as described above, however if this were not to happen then the projected maximum funding shortfall is £3.8m, as detailed in the table below:

Reablement Funding Summary	2020/21 £m
Reablement Budget within the BCF <i>(includes expected uplift of 5.1%)</i>	(10.4)
ECL Reablement contract <i>(includes ramp up & uplift)</i>	10.9
DILOR Proposed Block Contracts	3.3
Total cost of Reablement	14.2
Deficit	3.8

To mitigate this financial risk, it is proposed that the 'In Lieu of Reablement' service is included within the overall Better Care Fund allocation in 2020/21, to be agreed with health partners and subject to national guidance once available. There is not currently a BCF timetable for 2020/21 planning and while detailed guidance for 2019/20 was not published until July 2019, this was exceptionally late. If at any point the utilisation of this funding stream is no longer available,

it will be necessary for a subsequent decision to be taken on proposed alternative funding arrangements.

- 5.1.6 If 'In Lieu of Reablement' contracts are not put in place then the likelihood is that the pressure on the Domiciliary budgets would be greater. This is due to the benefits of cost avoidance in the current service through delivering better outcomes such as leaving the service with no on-going care needs and long-term packages put in place at lower levels than if this service were not available.

5.2 Legal implications

5.2.1 Reablement or Reablement in Lieu Services are considered to be intermediate care under the Care Act 2014 and therefore the Council is unable to charge for provision as result of the Care and Support (Preventing Needs for Care and Support) Regulations 2014.

5.2.2 The Public Contract Regulations 2015 (the "Regulations") cover the purchase of works, services or supplies by Contract Authorities. The Council is a Contracting Authority for the purpose of the Regulations.

5.2.3 The In Lieu of Reablement services fall within "social and other specific services" within Schedule 3 of the Regulations and the total contract value for all 5 lots is estimated between approximately £4.1m over the life of the contract and will therefore exceed the threshold of £615,278. As a result this procurement is subject to the "Light Touch Regime" of section 7 of Chapter 3 of the Regulations.

5.2.4 Section 7 of Chapter 3 of the Regulations requires the Council to publish its intention to award a contract for "social and other specific services by either a Contract Notice or a Prior Information Notice (subject to conditions relating to the contents of both the Contract Notice and Prior Information Notice,).

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.

7. List of appendices

8. List of Background papers

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor John Spence, Cabinet Member for Health and Adult Social Care	04.11.19

In consultation with:

Role	Date
Executive Director for Corporate and Customer Services (S151 Officer) Please send to your Head of Finance/Finance Business Partner who will arrange S151 sign off. Margaret Lee	01.11.2019
Director, Legal and Assurance (Monitoring Officer) Katie Bray on behalf of Paul Turner	22.10.2019