

Forward Plan reference number: FP/468/07/22

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| Report title: Recommissioning of Direct Payment Support Service | |
| Report to: Cllr John Spence, Cabinet Member for Adult Social Care and Health | |
| Report author: Moira McGrath, Commissioning Director, Adult Social Care | |
| Date: 15 th September 2022 | For: Decision |
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| County Divisions affected: All Essex | |

1 Everyone's Essex

- 1.1 Helping adults receive the care and support they need is central to the work and ambitions of Essex County Council (the Council).
- 1.2 A key element of this is personalisation – empowering individuals to have choice and control over the care they receive. Central to enabling personalisation is for the county council to offer direct payments. These can then be used to residents choose the care package that suits their needs.
- 1.3 To enable this to work effectively, the Council needs to ensure that the right support is in place. A review has been carried out of the Council's Direct Payments Support Service to help develop the marketplace for personalised care while ensuring the right, good quality support is available, with effective processes and technology. This review has drawn strongly on the experiences of existing service users.
- 1.4 The purpose of this paper is now, in light of the review, to seek agreement to commission these support services. By improving the way we support people to have choice and control over their care, this decision aligns closely with the Council's ambitions in Everyone's Essex around health, wellbeing and independence for all ages. It is expected that this decision will have no climate implications.

2 Recommendations

- 2.1. Agree to undertake a single-stage open procurement to commission the following services for a period of three years (from 1 July 2023 to 30 June 2026) with the option to extend for a further two years, in the following lots with the stated high-level evaluation criteria:

- Independent Information and Advice Service and Personal Assistant (PA) Support Hub with a 60% quality (10% of which assesses social value) and 40% price evaluation weighting.
 - Payment/Payroll/Account Management services with a 60% quality (10% of which assesses social value) and 40% price evaluation weighting.
- 2.2 Agree to delegate to the Executive Director for Adult Social Care the award of contracts to successful bidders following completion of the procurement process.

3. Background and Proposal

- 3.1. One of the key principles within The Care Act 2014 is wellbeing and at the heart of this principle is 'control by the individual over day to-day life, including over care and support and the way it is provided.' Personalisation is fundamental to the core purpose of adult care and support which the Care Act guidance sees as being to 'help people to achieve the outcomes that matter to them in their life'. Direct Payments (DP) are a vital tool to implement this personalisation and all councils must offer them to people who have been assessed as needing support.
- 3.2. Everyone's Essex sets out a number of ambitions which Essex County Council (ECC) seeks to achieve by 2025 and this includes the aim to Promote independence, enabling residents to live independently through working with partner organisations, communities and employers to improve outcomes for residents, to increase access to employment and suitable accommodation and to enable them to have greater choice and control over different aspects of their lives.
- 3.3. ECC has an adult social care transformation Choice and Control programme that has a vision of "Making choice real - creating the tools, practice and the market solutions people need to take control of their lives". To deliver this ambition requires improvements in three key areas:
- Ensuring practice and culture align to focus on putting personalisation at the core of ECC's social care offer
 - Ensuring ECC's processes and infrastructure support the use of personalised approaches
 - Increasing the marketplace for personalised care and support and ensuring good quality DP support
- 3.4. Alongside this, ECC needs to ensure technological advances are utilised to ensure people benefit from personalised services and enhanced access to a broader range of support.
- 3.5. The redesign of the support offered to people who receive a Direct Payment (DP) is a key activity within the choice and control programme and seeks to ensure that DP recipients have access to the right support, at the right time, to ensure they can manage their DP effectively to meet their needs and live their vision of a good life. Providing good quality DP support will ensure DPs are managed effectively and recipients are able to meet their needs in a cost-effective manner, reducing pressure on social work teams and increasing confidence in DPs. More importantly it will give DP recipients real choice and control over the way they use their personal budget.

- 3.6. ECC currently has contracts for the Direct Payment Support Services as set out in paragraph 3.8 that are due to expire in July 2023. It is proposed that ECC go out to the market to procure an Independent Information and Advice Service and Personal Assistant (PA) Support Hub and Payment/Payroll/Account Management services. The proposal to procure these services follows a period of coproduction and re-design of the DP support offer by ECC officers and people with lived experience of managing a direct payment.
- 3.7. There are approximately 3,300 Essex residents who receive a DP to manage their personal budget.
- 3.8. There are currently three ways people who are eligible for social care in the administrative boundaries of Essex can choose to receive and/or manage their Direct Payments:
- The Direct Payment Support Service (DPSS) which is currently delivered by Purple Conversations Community Interest Company. This contract expires in July 2023 and includes account management, payroll services and employment advice and guidance (including maintaining a Personal Assistant register). Approximately 1800 DP recipients in Essex use the DPSS (1500 adults and 300 children/families).
 - A prepaid card which is currently provided by Allpay under a contract which is due to expire on 23rd January 2023. Approximately 350 people (approx. 300 adults and 50 Children/Families) use the pre-paid card service.
 - Use of a dedicated bank account to self-manage their Direct Payments. Approximately 1000 adults and 150 Children/Families use this option.
- 3.9. ECC has undertaken extensive coproduction with DP recipients as part of its re-design of ECC's Direct Payments Support Services, to ensure services achieve the aspirations of people who receive a DP (and other key stakeholders); during this process, DP recipients advised ECC that they want:
- Consistency in the DPSS support offered as people move from children's social care services into adult social care
 - Support throughout the lifetime of their DP which can be responsive to their changing needs and situations. The current system provides most of the support at the outset
 - Choice and control and the ability to move to a different DPSS provider if they are dissatisfied with the support which they receive
 - Support to recruit and retain PAs and more peer support as an employer and as a PA
- 3.10. It is proposed that the new Direct Payment Support services (that have been redesigned to deliver the aspirations that DP recipients identified through the coproduction work) be procured. The key features of this new model include (see appendix 1 for a diagram of the new model):

3.10.1. **Providing good quality advice** at the point of (or prior to) assessment or review and throughout the lifetime of the DP. This will include advice on the benefits and responsibilities of accepting a Direct Payment and employment advice and guidance for those planning to employ personal assistants.

3.10.2. A series of options offered to **manage the funding of a Direct Payment**:

- **Account management, Payment and Payroll service**
- **Digital solution** – (this is outside the scope of this decision as the pilots are not concluded and need to be evaluated)
- **Prepaid cards** – (this is outside the scope of this decision)
- **Dedicated bank account** – This option is for people who do not want or need additional support to manage their DP.

3.10.3 Helping to **identify the right care and support**, there are three elements within this:

- **Support to recruit Personal Assistants (PAs)** – and hold the statutory PA register
- **Electronic Market Place** – to help people find and purchase a broad range of support.
- **Peer support** – advice and support from people who have previous experience of using DP services.

3.11 In line with the wish for support throughout the lifetime of the DP, the above support will be available when people require support or advice

3.12 A summary of the critical success factors for the new model is as follows (see Appendix 2 for further benefits of the model):

- increased customer satisfaction with the services through more and better support helping recipients maximise the benefits of a DP.
- Increased confidence in Direct Payments and the support available
- reduced pressure on the Council's frontline teams
- greater financial assurance
- Annual growth of between 3 – 5% for Direct Payments throughout the lifetime of the contract.

Proposed Procurement Approach

3.13 ECC is seeking to undertake a single stage open procurement to commission the following services in two lots with the following high-level evaluation criterion:

3.14 **Lot 1:** Independent Information and advice service and PA Support Hub – this lot will appoint a single service provider who will offer face to face and online/over-the-phone support to those who have elected to receive their budget by way of a Direct Payment.

- An Information and Advice Service that will provide independent advice before the point of set-up and throughout the lifetime of the direct payment when a DP recipient has questions.
 - An employment advice and guidance service providing advice around responsibilities as an employer and helping to develop contracts, pensions etc.
 - PA Support Hub – offering PA register and help with advertising and recruitment. Also support with training and retaining PAs including peer support for PAs)
- 3.15 The recommended high level evaluation weightings are 60% quality (10% of which assesses social value) and 40% price evaluation weighting.
- 3.16 Social value will measure the additional value organisations can bring to communities of Essex. ECC use an adapted version of the National Social Value Measurement Framework method - or National TOMs, for short - for reporting and measuring social value. This adapted framework is referred to as the ECC TOMs
- 3.17 Social value can come in many forms. For example, an organisation could:
- support local employment
 - introduce apprenticeships
 - donate time or money to local community schemes
 - reduce the use of plastic
- 3.18 For more information see <https://www.essex.gov.uk/supply-the-council/social-value>
- 3.19 The contract will enable ECC to purchase services using a mixture of block purchase and cost and volume. ECC shall block purchase a proportion of the service which delivers services to a specified number of DP users. The contract shall enable sufficient flex to enable the provider to utilise funds across all elements of the service, rather than allocating the budget in silos for each element of the service. It shall also contain a mechanism to enable ECC to reduce the size of the block purchase in the event that the number of DP recipients using the service is lower than anticipated. thereby reducing the risk of paying for an under-utilised service.
- 3.20 Further the Contract shall contain a mechanism to enable ECC to refer to the service in excess of the numbers included within the block purchase in the event that the number of DP users using the service is greater than anticipated. Should this be needed, this further provision shall be purchased on a cost and volume, rather than block basis.
- 3.21 **Lot 2:** Payment/Payroll/Account management services - this lot is designed to secure a single provider to deliver this element of the new DPSS offer.
- 3.22 The recommended high level evaluation weightings are 60% quality (10% of which assesses social value) and 40% price evaluation weighting.

- 3.23 It is recommended that these DPSS be commissioned under an initial three-year term with an option to extend for up to a further two years. This contract length will satisfy the market's appetite for medium-term stability but not tie ECC into a contract that is too long in a rapidly shifting market and landscape for direct payments.
- 3.24 There are two additional services to be commissioned as part of this new Direct Payment Support Offer. These services will need to be commissioned but are out of scope of this decision and appropriate governance shall be obtained in accordance with the Constitution prior to procuring them. These services are:
- Prepaid card service
 - Digital solution to manage Direct Payments

4. Links to our Strategic Ambitions

- 4.1. The proposed decision accords closely with ECC's key strategic themes of 'Equality' and 'Levelling Up', by ensuring there is choice and control in place for residents who receive a personal budget.
- 4.2. ECC define levelling up as follows: - "By levelling up, we mean a long-term commitment through a series of actions to connect people to opportunities and support aspiration across Essex. Our ambition is that all our residents can achieve the education and skills they need, share in economic success, experience a high-quality environment, have high levels of health and well-being and be part of stable, secure and resilient communities and families. We will work collaboratively across ECC, and with partners, businesses and communities to achieve this."
- 4.3. ECC's priorities include:
- Choosing areas of focus that will have a big impact on people's life chances and on ECC's strategic objectives*
- 4.4 This decision will contribute towards these priorities, by improving individuals' opportunities to make their own decisions on how they manage their budget and the support they feel best meets their needs; enabling them to live the best-quality life they can.
- 4.5 This decision is carbon-neutral and will therefore have no adverse impact on the County's focus on tackling climate change.

5. Options

- 5.1. **Option 1 (recommended): procure the services outlined above (Direct Payments Support Services "DPSS") through a competitive procurement**

Lot 1: Independent Information and Advice Service and Personal Assistant (PA) Support Hub

- A single Information and Advice Service that will provide independent advice before the point of set up and throughout the lifetime of the direct payment when a DP recipient has questions.
- An employment advice and guidance service providing advice around responsibilities as an employer and helping to develop contracts, pensions etc.
- PA Support Hub – offering PA register and help with advertising and recruitment. Also support with training and retaining PAs including peer support for PAs.

5.2 Lot 2: Payment/Payroll/Account Management services

- Payment/Payroll/Account Management services- A single provider. DP recipients will be entitled to ask for a cash payment if they wish to choose or change their provider.

5.3 The benefit of commissioning this service is that it will provide more and better support to people who manage a direct payment. This has benefits for the adults and children who receive support via a DP, through increased choice and control. It also has benefits for ECC through better value for money, reducing pressure on frontline teams, fewer contacts and reduced pressure on care providers as they are paid efficiently and have less demand through people finding alternative solutions.

5.4 Option 2 (not recommended): Do nothing,

5.5 ECC could elect to do nothing. If this option were adopted, effectively ECC would permit the current DPSS contracts to expire on 30th June 2023 without a viable alternative commissioned DPSS provision. This gap in contracting a commissioned DPSS service would lead to no support being available.

5.6 The current DPSS service is used by over 2000 individuals who need DP support to ensure their care is paid for and their budget is managed effectively. Without this service, there is a risk that care will break down and more people will have to revert to a managed service contrary to ECC's personalisation agenda. This will reduce choice and control for these individuals and is also likely to provide greater cost for ECC.

5.7 Option 3 (not recommended): Provide all DP recipients with the funds to source their own support

5.8 This option would involve letting the existing DPSS contracts come to an end without commissioning a replacement service. ECC would elect to allocate extra funds to the personal budget of every DP recipient who currently uses the DPSS service, to enable them to source their own DP support. They could

either opt to remain with the current DPSS provider or source an alternative provider or secure an alternative solution. However, this option is not recommended for the following reasons:

- This process would not create any opportunities for economies of scale and might lead to ECC increasing costs on the support as it will not be able to influence the market around pricing.
- This approach could lead to a multitude of processes within ECC's case management and payment systems, resulting in unwarranted administrative complexities
- ECC would have less influence on the service and would be likely to experience challenges conducting proportionate financial monitoring of Direct Payments

5.9 ECC would need to develop and implement a new internal process to transfer the payment methods of over 2,000 individual accounts to maintain the payment of DP funds to DP recipients to continue to pay for their care. This process would need to be enacted in addition to the planned work to address the existing internal systems issues. There is a significant risk that the continuity of the service could not be maintained throughout the transition period, due to the time lags in delivering this option.

6. Issues for consideration

6.1. Financial implications

6.1.1 The current budget for Self-Directed Support contracts in 2022/23 is £900,000. Certain elements of these contracts have been inflated within the Medium-Term Resource Strategy (MTRS) by 3.8%, resulting in a £2.9m budget allocation for the three-year period of this contract. Current spend on DPSS related contracts is £743,000; the additional budget has been used to test or resolve process issues in the short term. The overall implication of this decision is to commit to costs of up to £2.9m over the three-year period. The cost of the service varies with the number of service users and so may get above or below this value (as they continue to have the choice of not using our commissioned services and receiving the ECC funding into a dedicated bank account). Overall growth in demographics is included in the MTRS and so, if assumptions are correct, more people using this service would be offset by fewer in managed services, and vice versa if fewer people use it. The spend will be monitored and managed as part of our budgetary control processes.

6.1.2 To ensure the lots are contained within the existing budget at current volumes, the proposed pricing model subject to market testing, are:

- **Lot 1** – Independent Information and Advice Service and Personal Assistant Support Hub (IIA&PA Hub) Mechanism to be enabled for a mix of fixed and variable contract elements to allow flex of budgets within the Lot to accommodate variations in volumes – commercial scoring to be based on a capped budget of £280,000 per annum.

- **Lot 2** – Account Management and Payment and Payroll Services. Commercial scoring to be based on indicative volumes with a floor and ceiling budget approach of between £460,000 and £650,000 per annum. Price per client per month will be the contractual value and will also be used to calculate a fixed (block) payment element to ensure sustainability to the provider. The pricing matrix would be modelled using estimated example total and will clarify the budget floor and ceiling.

| Description of Lot 2 Element | Account Management | Payroll Services | Total |
|--|--------------------|------------------|----------|
| Floor Value of Evaluation (will be Block value of contractual payment) | £310,000 | £150,000 | £460,000 |
| Indicative volumes for Lot element | 1800 | 900 | |
| Ceiling Budget for evaluation purposes | £440,000 | £210,000 | £650,000 |

- 6.1.3 Weighting evaluation for both lots is recommended as in paragraph 2.1 of 60:40 quality (including social value)/price.
- 6.1.4 The total value of funds that will be passported through the DPSS Provider is estimated at £40m per annum. In recognition of the need to ensure suitable financial protection of these funds, the DPSS contracts will include provisions both to protect ECC's commercial interests and to safeguard DP clients from fraud. These provisions will also detail ECC's requirements for financial auditing and oversight to mitigate these risks and the minimum requirements which the successful bidder will be obliged to enact to safeguard these funds.
- 6.1.5 Savings have not been included in the budget for this procurement at this stage. It is possible that direct payments can be used to deliver services that are lower cost than those in a managed service; however, this hypothesis has not yet been tested. Once the contract is live, data will be evaluated and consideration given to potential savings for the future MTRS.

6.2. Legal implications

- 6.2.1 The employer advice and guidance services are considered to be "light touch" for the purposes of the Public Contracts Regulations 2015 (the "Regulations") and therefore the procurement of these services is not subject to the full rigour of the Regulations.
- 6.2.2 The Regulations require ECC to publish its intention to award a contract for 'Light Touch' services with a value in excess of £663, 540 (inclusive of VAT) by either a Contract Notice/Find a Tender Notice (FTS) or a Prior Information Notice.
- 6.2.3 Regulation 76 of the Regulations states that Contracting Authorities will determine the procedure to be followed to award the contract, but that such

process must at least be sufficient to ensure compliance with the principles of transparency and equal treatment of economic operators. ECC intends to adopt a procedure akin to the Open Procedure detailed with the Regulations.

- 6.2.4 Payment Support Services are not 'Light Touch' for the purposes of the Regulations and therefore are subject to the full rigour of the Regulations. ECC intends to adopt the Open Procedure for the full procurement to ensure that these services are procured in accordance with the requirements of the Regulations for non-Light Touch services.
- 6.2.5 The procurement documents and the Contract Notice / FTS will need to stipulate the mix of block purchase and cost and volume, including a reasonable estimate of the total value of the services to be purchased within the possible contract term; this estimate will need to cover the initial contract term and any possible extension periods.
- 6.2.6 The selected provider for Payment Services will handle approximately £40m per annum in Direct Payment sums on ECC's behalf. ECC will therefore need to ensure that these funds are protected in the event of insolvency and safeguarded against fraud. To mitigate the risks to the funds of insolvency and fraud, ECC will require the Payment Services provider to hold funds in a designated ECC account, where the monies shall be held on trust to ECC. The provider will need to be able to produce to ECC documentary evidence of the money going in and out of the designated account, per individual and reconcile this against the money in ECC's account.
- 6.2.7 Although not expressly stated in insolvency legislation, there is case law to support the position that monies held in an account on trust are protected in insolvency situations such as voluntary winding up and compulsory liquidation as the money does not belong to the provider.

7. Equality and Diversity Considerations

- 7.1. The Public Sector Equality Duty applies to ECC 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. After evaluating the impact of the proposal against all groups that could be potentially impacted, we assessed that these proposals would in fact have a medium positive impact as this additional emergency regulated provision for children and young people in care would be available to support a under 16s who required an emergency regulated placement. Under 16s who are eligible for the emergency regulated provision would be eligible for this support based on need. Therefore, this provision does not exclude any group of children or young people based on their protected characteristics.

8. List of Appendices

Equality Comprehensive Impact Assessment Reference ECIA446313688
Direct Payment Support Offer diagram
Benefits of the New Direct Payment Support Offer model

9. List of Background Papers

None.

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| I approve the recommendations set out above for the reasons set out in the report. | Date |
| Cllr John Spence, Cabinet Member for Health and Adult Social Care | 11.10.2022 |

In consultation with:

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| Role | Date |
| Nick Presmeg, Executive Director for Adult Social Care | 05.10.2022 |
| Executive Director, Corporate Services (S151 Officer) | 27.09.2022 |
| Stephanie Mitchener on behalf of Nicole Wood | |
| Director, Legal and Assurance (Monitoring Officer) | 15.09.2022 |
| Laura Edwards on behalf of Paul Turner | |