

Forward Plan reference number: Not applicable

Report title: Funding for Adult Social Care: COVID 19 Response	
Report to: Councillor David Finch, Leader of the Council	
Report author: Nick Presmeg Executive Director for Adult Social Care	
Date: 17 March 2020	For: Decision
Enquiries to: Laura Davis-Hughes, Head of Finance Adult Social Care	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To ask the Leader to agree additional funding for adult social care.

2. Recommendation

- 2.1 That £11.4m be drawn down from reserves as follows:

- (a) £140,000 from the emergency reserve in 2019/20
- (b) £9.86m from the emergency reserve in 2020/21
- (c) £1.4m from the transformation reserve in 2020/21

to support providers to cope with the anticipated demands placed upon them by the covid19 response.

- 2.2 Agree that Directors in Adult Social Care may vary contracts with domiciliary care providers to deal with the issues identified in 3.7

3. Summary of Issue

Context

- 3.1 The global outbreak of coronavirus (COVID-19) is affecting the UK. The number of cases has grown significantly since early March. The frail and elderly are the most vulnerable. The health and care sectors are likely to be significantly affected and face high demand and pressures on workforce due to COVID-19 related absences.
- 3.2 Urgent preparation to ensure an effective response to 'Covid-19' is taking place across the council. We need to ensure that we:
- Ensure the safety and wellbeing of people in Essex and our most vulnerable residents
 - Avoid providers suffering financial hardship as a result of Covid-19

- Ensure that providers within the social care market remain sustainable at a time when they may be under significant pressure in order to ensure that care staff can continue to work and do not suffer financial hardship as a result of Covid-19
 - Maintain statutory duties
- 3.3 It will be vitally important during the period of the Covid-19 response to sustain providers of social care to make sure that they are able to continue in business in the face of demand and workforce pressures. The council is taking firm and swift action to protect the provider market and wishes to share the approach set out in this paper with providers to assure them during this period. This decision focuses on providers within the homecare market including within supported living, extra care and for those whom manage their own direct payments. As the service responds to the developing crisis, further decisions will need to follow in due course.
- 3.5 Equally, it is likely that Essex acute hospitals will face increased demand and pressures, together with Emergency Powers, meaning that ASC will need to ensure that wherever possible people with social care related needs are able to be cared for out of hospital, freeing capacity for people with Covid-19 related complications. The council is taking steps to ensure maximum flexibility to procure facilities such as care home beds to support this drive, but any additional expenditure required here will be subject to a separate decision.
- 3.6 For people who are fund their own care the council needs to act to support where care arrangements fail, and any additional expenditure required here will be subject to a separate decision.
- 3.7 It is proposed that additional funding is made available in order to
- * Ensure that providers can cut low priority homecare visits whilst still retaining funding, thus enabling them to increase capacity in their service and give them more resilience to cope with staff sickness.
 - * Provide flexibility for providers to provide additional support to service users if required
 - * Provide a fund to pay overtime where necessary to meet a temporary increase in demand.
 - * Provide funding to compensate for the loss of income where the Council is unable to pass on charges to service users as a result of the above.
 - * Provide care and support to people on direct payments where they need to change provider as a result of illness.

4 Reason for Using Urgency Powers

- 4.1 The council is expecting extremely challenging conditions as Covid-19 takes effect. Adult Social Care needs to be able to take all necessary action to fulfil its duties during this period and reassure providers, service users, and partners in the NHS of its capacity to do so.

4.2.1 In the budget on 11 March, the Chancellor announced £5bn nationally to support:

- The NHS to treat Coronavirus patients, including maintaining staffing levels
- Local Authority actions to support social care services and vulnerable people
- Ensuring funding is available so other public services are prepared and protected

4.7 It is expected that an allocation of this fund will support costs outlined in this report. However, the allocation methodology for this fund, how much ECC will receive and when we will receive it has not been confirmed. Given the urgency of the need to support social care providers, the Council cannot wait for that announcement. In the interim the costs will be covered by the Council's Emergency contingency reserve.

5. Financial Implications

5.1 Officers working on the response have identified areas of financial provision to help secure resources in the homecare market which will in turn support the NHS and ensure providers, employees and service users are supported during this period.

5.2 As set out in table 1, the cost of underwriting the risk in the market for Domiciliary, Supported living, Extra Care and Direct Payments is a range of £3.5m to £13.6m and the funding for this is not asked for within this report as we have budgetary provision within Adults to meet the £13.6m. This relates to a gross budget of £221m a year and 10,600 clients. This is specifically not for residential care for which a further decision will be forthcoming.

5.3 As we have funding in Adults to meet the above underwriting we request funding to meet the expected budget demand of £11.4m set out in table 1. It is not possible to precisely predict as we do not know how the market will respond to the evolving situation we find ourselves in. However, we will review the impact through returns every 2 weeks.

5.4 This funding will support the market for 4 months, at a mid-range cost of approximately £11.4m, but an upper range additional cost of £27.1m. Of this approximately £140,000 will fall in to 2019/20 and £11.26m in to 2020/21.

5.5 The Government has made it clear that it will provide emergency funding for social care from the £5bn emergency fund. As at 17 March 202 there is not clarity about the mechanism for draw down though this is expected within working days.

5.6 It is essential we make emergency funds available pending that announcement and hereby we recommend to draw down from the following funds:

- Emergency Contingency (total balance £10m at 1 April 2020)
- Transformation reserve (the balance of £1.4m)

5.7 The expectation is that these will be replenished from the emergency funds made available by Government to ensure resilience for other areas.

5.8 Additional financial support to sustain home care provision is set out in the table below:

Table 1

Item	Description	Estimated Cost	Budget Requirement	Comments
Home Care, Supported Living and Extra Care	To sustain homecare providers to deliver care services, recognising any need to draw on agency staff and potential for lower level Service Users to receive welfare telephone calls rather than face to face care.	<p>Loss of income range £1.9m – 3.1m Mid point £2.5m</p> <p>Market under writing range £3.5m - £13.6m</p>	<p>£2.5m</p> <p>-</p>	<p>The low range client contribution loss assumes that we lose client income for all SUs receiving < 8 hours of care as we cannot charge for care not received. Less than 8 hours being deemed the threshold for low need SUs. This will be compared to each providers assessment of their low need SUs once funds are agreed.</p> <p>The high range client contribution loss assumes loss of income for 25% of hours provided.</p> <p>We will allow a new 25% tolerance on care provided:</p> <p>The low range market under writing assumes we pay for those with < 8 hours but that they don't receive the care. This is approx. 5% of the hours commissioned.</p> <p>The high range market under writing assumes that we continue to pay for care hours up to 25% that are not delivered.</p> <p>If providers start to under provide and we continue to pay them in line with what is already forecasted this does not require additional funding as we have already accounted for it in our budget and forecast. The additional cost comes from the need to pay overtime or the cost of an agency worker which is set out at the bottom of this table.</p>

Item	Description	Estimated Cost	Budget Requirement	Comments
Direct Payments	To sustain support to those that manage their own person budgets	Increased demand range £10.5m - £0	£1.4m	Providers can increase individual care packages, where need requires, by up to 25% or they may be required to allow for actual increase in SUs over this time.
		10% take up £1.4m		If we assume that 10% of our 25% tolerance to increase packages is taken up by providers that will cost £1.4m based on an extra 5,000 hours per week.
		Over time range £11m - £1.1m	£5m	Based on providers paying time and half for anywhere from 5,000 – 50,000 hours to pay overtime or additional hours to care workers who are still able to work and cover additional rotas.
		Mid point £5m		based on potential requirement to fund care support for 2 weeks per SU
		£2.5m	£2.5m	Based on those that manage their own care needing to source extra care for a 2 week period while their current care staff isolate.
			TOTAL £11.4M	

- 5.9 The above arrangements will be reviewed every 2 weeks, through a period of open book accounting and reconciliation against actual, to give us an opportunity to refine the model in light of the developing situation. This will also help align with national guidance as it comes out. The amount set out above is for a 4 month period. We recognise there is a risk that providers may look to profiteer and we will look to mitigate this through auditing, requiring evidence and taking appropriate action against any identified fraudulent activity. Where funding is directed to providers this will be on the basis that providers have agreed basic terms and conditions. These will be set out within 'Mutual Aid' arrangements between providers and, in respect of financial considerations will include:
- a) Provider to submit regular expenditure return setting out how funding has been deployed; recognition that actual appropriate expenditure may have been greater than planned and commitment to honour this
 - b) Provider to retain records / audit trail of disbursement
 - c) ECC to reserve right to check retrospectivity and claw back where satisfactory supporting evidence is not available or expenditure is not considered to be appropriate.
- 5.10 Officers are working to ensure maximum flexibility in payment arrangements where needed.

6 Legal Implications

- 6.1 This involves variation to contracts on a temporary basis. Such amendments will need to take place in a way in which we can recover payments if the provider has created extra capacity by cutting support in order to earn extra money. On that basis this decision complies with regulation 72(1)(c) of the Public Contracts Regulations 2015 because:
- (a) the need for modification has been brought about by circumstances which a diligent authority could not have foreseen;
 - (b) the modification does not alter the overall nature of the contract;
 - (c) any increase in price does not exceed 50% of the value of the original contract or framework agreement.
- 6.2 As the constitutional basis for the decision is that the Chairman of the Corporate Policy and Scrutiny Committee has agreed that it is urgent and cannot reasonably be deferred, this decision will need to be reported to full Council for information.

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 recommendations in this report are designed to ensure that the Council meets the need of social care users, most of whom are disabled. In view of the urgency of this decision a full equality impact assessment has not been undertaken but we do not believe that there will be a significant adverse impact on any people with a protected characteristic.

8. List of Appendices

None

9. List of Background Papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date 17 March 2020
Councillor David Finch, Leader of the Council	

In consultation with:

Role	Date
Councillor John Spence, Cabinet Member Health and Adult Social Care	17 March 2020

Nick Presmeg Executive Director of Adult Social Care	17 March 2020
Executive Director for Finance and Technology (S151 Officer)	17 March 2020
Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	17 March 2020
Paul Turner	

Exemption from call in and being included on the forward plan

I agree that this key decision is urgent and cannot reasonably be deferred and therefore that it may be taken without it being on the forward plan.

I also agree that it is in the best interests of the Council for this decision to be implemented urgently and therefore this decision is not subject to call in (paragraph 20.15(xix) of the constitution applies).

Councillor Mike Mackrory – Chairman of the Corporate Policy and Scrutiny Committee 17 March 2020