Forward Plan reference number: FP/047/04/21

Report title: Approval to secure Designated Settings capacity beyond July 21	
Report to: Councillor Kevin Bentley, Leader of the Council	
Report author: Moira McGrath, Director, Strategic Commissioning	
Date: 20 May 2021	**For:** Decision
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County Divisions affected: All divisions	

1. Purpose of report

1.1 As part of arrangements to support the safe discharge of COVID-19 positive patients from acute hospitals, the Council is required by the Department of Health and Social Care to have in place a Care Quality Commission (CQC)-approved designated setting. These are facilities solely reserved for, and occupied by, patients coming out of hospital who are covid positive, and who are not yet ready to return home. Establishing these sites during the first two waves of COVID-19 proved difficult to do at pace, with limited options available from residential and nursing home suppliers as the pandemic escalated, given the need for suitably qualified and available staff, appropriate insurance cover, vacant beds and the ability to safely segment buildings for safe infection control. By taking a timely decision on the future supply of this provision, the Council will also be supporting it's 'renewal, equalities and ambition' objectives via the bolstering of system capability to manage future Covid surges. The decision will have a neutral impact on climate change.

1.2 This report asks the Cabinet Member to agree that we can support our residents by making arrangements to provide care for COVID-positive people who cannot go home and do not need to be in hospital.

2. Recommendations

2.1 Agree to invite tenders, via a Public Contracts Regulations 2015-compliant single-stage competitive tender exercise, for care homes able to provide beds suitable to use as isolation capacity at multiple sites across the County for the period up to 30 April 2022.

2.2 Agree that the Executive Director, Adult Social Care, may extend the current contract with Stow Healthcare for the provision of 25 beds of designated isolation capacity at Cedars Place Care Home for up to 3 months from 19 July 2021 to allow for alternative sites that may be identified via the tender process to complete the required CQC approvals process in advance of any mobilisation that may be required from them.

2.3 Agree that the Executive Director, Adult Social Care, in consultation with the S151 officer, may enter into contracts for up to 65 isolation beds from sites identified via the tender process, for the period up to 30 April 2022. In triggering contracts and mobilisation, the Executive Director, Adult Social Care, will consider demand, location of sites and resulting best value.

2.4 Note that it is expected that initial mobilisation from the identified sites will be for 15-25 beds in a central location for the period up to 31 October 2021. There is no guarantee that any or all of the 65 beds will be mobilised.

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2.5 Agree to delegate to the Executive Director, Adult Social Care, in consultation with the S151 officer, approval for the tender scoring criteria. This will include assessment of quality and suitability for isolation, price and location.

2.6 Agree that a maximum of £4.6m is drawn down from the Covid Equalisation Reserve to fund the cost of the above recommendations. Any unused funds will be returned to the reserve.

2.7 Agree that the Executive Director for Adult Social Care, may enter into contracts with suppliers successful in the tender exercise up to the maximum total value of £4.6m for the provision of isolation units from 19 July 2021, with residential care home owners, Essex Cares Limited (ECL), catering companies, cleaning companies and any other as may be necessary, dependent on capacity requirements and future outbreaks, for the purpose of making the provision described in 2.3 on flexible terms up until the end of April 2022, and subject to an understanding that he will consult the Cabinet Member for Health and Social Care after the spending commitment reaches £2m.

2.8 Instruct officers to claim as much funding as possible from the NHS hospital discharge programme (HDP) and to use the existing risk share agreement with NHS partners to minimise the amount that the Council cannot reclaim from the NHS central funding.

2.9 Agree that the Executive Director, Adult Social Care, may make any necessary application to the CQC to register any such schemes as may be required, so they can operate as designated isolation units.

3. Summary of issues

3.1. Previous decisions (FP/885/11/20 and FP/943/01/21) granted approval to secure up to 250 beds across multiple sites for temporary use as designated COVID-19 isolation capacity in the period up to 31 July 2021.

3.2. These decisions followed requirements set out by the Department of Health and Social Care on 13 October 2020 instructing local authorities to establish isolation capacity in order to support discharge from acute hospitals of COVID-19 ‘positive’ patients requiring residential care , as well as the second wave accelerations in COVID cases, and the declaration of a critical incident with the Essex health and care system by the Local Resilience Forum.

3.3. The purpose of creating designated settings is to ensure strong infection prevention and control processes are in place, protecting care home communities whilst maintaining the necessary flow within the acute and community hospital sector. People being discharged would typically stay in an isolation unit for up to 14 days, when they would be able to return either to another residential setting or to their own home.

3.4. During the first wave of COVID-19, the Council entered into a short-term contract for facilities at Howe Green, Chelmsford. This was staffed by ECL Ltd and, at peak usage, 25 people were isolating at the site. The second wave was more challenging, as Howe Green was no longer available and alternatives had to be found and inspected for suitability at pace. At peak usage, 63 people were isolating in a designated setting in the second wave.

3.5. During the second wave, some ECC residents were placed at the sites commissioned by Southend and Thurrock unitary authorities. This was of critical importance in keeping the system functioning at its moments of most severe pressure. By the end of December 2020, ECC had approached over 90 local providers to discuss their willingness and potential to function as a designated setting, with very few positive responses.

3.6. Modelling for the second wave overestimated the number of designated beds we might require. This was because the severity of the illness often meant community hospitals were a more appropriate isolation setting for recovering patients. Therefore, for future waves, we are guided by previous experience and propose that permission is sought to secure up to 65 beds of isolation capacity across the County in the period to end April 2022. This end date allows coverage for the Easter 2022 period if needed.

3.7. Because current usage is low (less than 5 in use at any one time in the previous month), initial contracting is anticipated for 15-25 units from the highest scoring supplier(s) identified via the proposed tender exercise. However, the process will identify other appropriately qualified sites, which could be mobilised at a later time, should demand escalate, or the higher scoring home no longer be able to offer a setting to meet ECC demand. Contracting with these providers would be dependent on analysis of demand, likely usage (including location) and value. It would be proposed to trigger mobilisation of extra capacity beyond the initial 15-25, if more than 60% of the beds are occupied for 5 consecutive days.

3.8. The Council has also discussed spot placement arrangements for beds at sites with officers in Southend and Thurrock Unitary Authorities and Suffolk County Council, with a view to making the most efficient use of places commissioned by the four authorities. These measures will help ensure that the risk of paying for void space is reduced, but it cannot be avoided.

Procurement approach

3.9. It is proposed that there will be a single stage competitive tender process complying with the 'Light Touch' regime of the Public Contract Regulations 2015. All bidders procured and reaching quality thresholds will be assessed on the basis of a 40% price and 60% quality split in line with the Council's Procurement Policy and Procedures and will include at least the following:

3.10 The prices submitted will be fixed and fully inclusive for the contract period, although the Council will have absolute discretion to review rates if it so wishes. This is consistent with the Council's general approach to increasing prices for care services delivered to adults.

Conclusion

3.11. The Council clearly needs to secure ongoing isolation beds for the reasons set out above. As well as complying with the guidance, the benefits of the service will be:

- Increased pace on exit from hospital, supporting management of demand in the acute sector over the coming months.
- Supporting good infection prevention and control practices for care homes and COVID-19 positive patients requiring discharge to residential settings.

3.12 The service will be reviewed at key points and will be monitored on a daily basis to ensure the service is operating appropriately and is achieving the key deliverables of safe infection control, timely admission and timely discharge.

3.13 If this report is approved, the Council will instigate the tender process and will agree funding arrangements with NHS partners for a maximum period up to 30 April 2022. Placement arrangements will also be put in place with Southend, Thurrock and Suffolk County Council to ensure the risk of void space is reduced.

3.14 Depending on the outcome of the tender, officers may also put in place a short term extension to the current contract with Stow Healthcare for Cedars Place, in order to allow time for sites successful in the tender to go through the CQC approval process (should they be the highest scoring bidders and have no prior designated setting approval from CQC and should we need to enter into contracts for the 15-25 beds mentioned in 3.7).

3.15 DHSC confirmed in March 2021 that funding for the hospital discharge programme (HDP) has been extended for the first half of the 2021/22 financial year and allows patients who have tested positive for the virus to be discharged safely from hospital into a specifically designated setting, where they will receive appropriate care in a COVID-secure environment, before returning to or moving into a care home or other care environment.

3.16 ECC will not enter into a financial commitment unless it believes that a significant part of the costs can be recovered from the NHS. The council will need to enter into a block contract with each care provider it mobilises following tender, as the provider is unable to accommodate people who are Covid-19

negative in the designated setting due to the infection control risks, but will need to have a minimum level of staffing and utilities regardless of the number of people accommodated. There is a risk that the NHS may challenge the act of paying for empty beds or the level of costs. We will seek to minimise this risk (in addition to the measure outlined in 3.8) by entering into an arrangement with local NHS partners to share risk and to minimise the cost to public money. It should also be noted that homes may need to gradually increase their capacity over time and the Council will not be expected to pay for capacity which is not available to it.

4. Options

4.1 Do nothing.

It is clear from correspondence with DHSC that all councils are expected to identify isolation capacity within their area beyond July 2021. Not putting such units in place would be a risk to the equilibrium in the Essex health and social care system as it responds to the pandemic.

4.2 Undertake a competitive procurement process and spend up to an additional £4.6m on up to 65 beds at multiple sites during the period to 30 April 2022. (Recommended)

This option allows ECC to invite tenders from suitably qualified providers to deliver the specified service in an open and transparent process This would see ECC purchasing up to 65 beds (15-25 initially, any further dependent on demand) and committing up to £4.6m, based on need, for care required in designated isolation sites.

5. Issues for consideration

5.1 Financial implications

5.1.1 The maximum value of the recommended option of £4.6m for 65 beds over a nine-month period is based on commercial discussions and the cost of capacity previously sourced in early 2021. This would be in order to manage future potential Covid waves including seasonal demand over winter and beyond the Easter weekend in 2022. If demand is lower than anticipated with only 25 beds are in place until 31 October 2021 and none beyond that, the cost would be £600,000. These figures are stated gross, i.e. excluding any NHS funding contribution.

5.1.2 There was a significant range in unit prices for these facilities earlier in the year when market options were limited, with the average cost per bed approximately £2,000 per week. For comparison, the maximum rates on the Integrated Residential and Nursing (IRN) framework from June 2021 are £646 per week for residential care, and £785 for nursing care. The cost is comparatively expensive due to the short-term nature combined with the relatively small size

of each unit, and the specialist infection prevention and control standards required particularly around separate staffing rotas, cleaning, and PPE. This makes it difficult to benchmark, but the competitive tender exercise will help ensure the value for money and viability of proposals are evaluated thoroughly.

5.1.3 Through the HDP, NHSE will continue to fund the first six weeks of additional care after discharge from an NHS setting during the first quarter of 2021/22 financial year and the first four weeks from the beginning of July. The expected length of stay within these settings is 14 days or less, as the required 14-day isolation period for patients testing COVID-19 positive is likely to have started prior to the date of discharge from hospital, when the test was carried out.

5.1.4 As much as possible of the expense incurred will, be submitted to CCGs for reimbursement monthly (in arrears). This approach has been in place for existing and previous contracts, and expenditure claims to date have been fully reimbursed through NHS funds, including payment for voids, though there remains the risk of challenge due to the finite national funding envelope. HDP guidance states that claims against this fund can only be made based on new costs incurred related to the opening and running of CQC designated settings, as well as replacement care commissioned in repurposing existing facilities.

5.1.5 The HDP funding route is only available until 30 September 2021 at the time of writing, and so any expenditure committed beyond this date would fall to the Council in the first instance, unless the HDP is extended or an alternative scheme implemented. Contractual arrangements will ideally be contained within or as close as possible to these date constraints initially, to minimise this risk. The proposed initial extension at Cedars Place is in line with this approach.

5.1.6 All new arrangements for designated isolation capacity will be made in consultation with NHS partners to ensure the most effective capacity is in place and that NHS funding is assured. A risk-sharing agreement with CCGs will be in place to minimise cost exposure to the Council due to:

- Challenge from NHSE on unit price or level of voids.
- Cessation of HDP funding before contractual commitments end.

5.1.7 Block purchasing has the inherent risk of paying for void capacity, and it is not known exactly what the demand profile will look like, though it is assumed that it will not exceed the peak demand reached during the second wave in January. There is the possibility that utilisation is low for long periods, as it is at present, and alternative uses will be explored to ensure best value for money. However, some designated isolation beds will need to remain in place to meet the DHSC requirement. The approach of first securing 15-25 beds addresses this need while the tender exercise identifies additional capacity, should it be required.

5.1.8 Void expenditure will be minimised by only entering new contractual arrangements when the decision is supported through evidence of sustained or increasing demand, as per the agreed trigger points.

5.1.9 It is recommended that the Council makes general emergency Covid funds available pending clarity on specific funding arrangements and hence the call

on the Covid Equalisation Reserve. The expectation is that the appropriate reserve will be replenished from funds made available through the HDP or other emergency funding routes in the short term, and any unused funding will also be returned.

5.2 Legal implications

5.2.1 The proposals in this report comply with the provisions of the Public Contracts Regulations 2015

5.2.2 It should be remembered that many of the temporary easements for the initial pandemic are coming to an end and it will be necessary to ensure compliance with planning law, any planning conditions and registration requirements in the operation of these services.

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.

8. List of appendices

Equality impact assessment

9. List of background papers

I approve the above recommendations set out above for the reasons set out in the report. **Councillor Kevin Bentley, Leader of the Council**	**Date** 25 June 2021

In consultation with:

Role	**Date**
Cabinet Member for Finance **Councillor Chris Whitbread**	**25 June 2021**
Cabinet Member for Health and Adult Social Care **Councillor John Spence**	**24 June 2021**
Executive Director for Adult Social Care **Nick Presmeg**	**21 June 2021**
Executive Director for Finance and Technology (S151 Officer) **Stephanie Mitchener on behalf of Nicole Wood**	**16 June 2021**
Director, Legal and Assurance (Monitoring Officer) **Paul Turner**	20 May 2021