



Essex County Council

AGENDA ITEM 7

Report to Cabinet	Forward Plan reference number: FP/423/02/16
Date of Meeting: 17 May 2016	County Divisions affected by the decision: All Divisions
Title of report: Live at Home: Tender for home support services	
Report by Cllr Dick Madden – Cabinet Member for Adults and Children	
Responsible Director: Nick Presmeg, Director for Integrated Commissioning & Vulnerable People (Working Age Adults)	
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1. Purpose of report

- 1.1. To seek approval to procure a new Live at Home (domiciliary care services) Services Framework Agreement to commence in February 2017.

2. Recommendations

- 2.1. Agree to invite tenders for Live at Home Services across Essex using a one stage tender process complying with the Public Contracts Regulations 2015. A framework contract will be awarded as a ranked list. The contract will be awarded for 4 years.
- 2.2. Authorise the Cabinet Member for Adults and Children to authorise the award of contracts following completion of the procurement process.

3. Background and proposal

3.1. Background

- 3.1.1. Live at Home services are care services delivered in the person's home. This includes personal care, cleaning and house care, practical and social support, minor health related tasks (excluding district nurse tasks), administration of medication and support during the night (either night sleep or night sitting).
- 3.1.2. Essex County Council (ECC) currently purchases Live at Home services for Older People (aged 65+), Adults with Learning Disabilities, Adults with Mental

Health Needs, Adults with Physical and Sensory Impairments and Carers. At present this is purchased via a framework agreement with suppliers. Suppliers submit prices for types of care and location. These are used to produce a Best Ranked Value List (BVRL) which is used to determine which provider is asked to provide care to a particular individual. Where no supplier accepts the job or the job is outside the scope of the arrangements then the council makes individual 'spot' arrangements covering the placement. The current arrangements expire in February 2017.

- 3.1.3. The current spend on the Live at Home services is £92m per annum for over 15,000 service users utilising services from over 190 providers. £52m of this money is spent via current BVRL contracts. These contracts were tendered in 2010 and awarded in 2011 and extended by mutual agreement in February 2016. Approximately £40m per annum is spent on spot placements.
- 3.1.4. Accordingly, new arrangements are needed. ECC's proposed approach to Live at Home services supports wider commissioning intentions to focus on prevention, independence, and the assets and strengths of people and communities. This will help ECC to deliver key responsibilities and duties under the Care Act (see paragraphs 4.6 and 4.7). This proposal does not include supported living/extra care services, which are procured separately.

3.2. Proposed Tender Approach

- 3.2.1. Officers have considered a range of procurement approaches, including a preferred list, lead provider model and dynamic purchasing system. Having carefully considered the key risks, issues and lessons learnt by other local authorities who are tendering for similar services, it is proposed to adopt a Ranked List Framework Model (described at paragraph 3.3).
- 3.2.2. The proposed approach provides stability for the market by allowing providers to submit new prices with effect from 2017. The Ranked List Model is the preferred option because:
 - (a) It provides certainty and continuity to the current market, as providers understand and are familiar with the ranked list mechanism;
 - (b) It will enable ECC to secure capacity in the short term at an affordable price whilst we work on longer term ambitions; and
 - (c) It will retain a network of operators in each locality which will maintain competition whilst we look at longer term objectives.
- 3.2.3. During the new framework it is envisaged that ECC would work with providers to develop a longer term vision, which includes our intention to:
 - (a) Move towards a simple efficient platform which allows for micro commissioning, and to
 - (b) Give adults requiring services as much choice and control as possible in a culture which encourages adults and for the market to operate in a way which promotes this.

- 3.2.4. It is proposed that the Live at Home Framework will be procured on a lot basis with 12 lots based on District boundaries. Providers will be able to bid per lot and will be able to provide a different price for each District and each specialism. ECC will use this produce a ranked list for each specialism in each District.
- 3.2.5. It is anticipated that ECC will award multiple contracts and/or Districts to providers who are interested. Providers that bid for multiple contracts and/or multiple Districts could have differing positions on each Ranked List according to their overall score and the score of others admitted to the relevant Ranked List. Providers will be able to update their prices annually, although the new prices will only apply to new work.
- 3.2.6. The intent is to ensure that the Framework model will provide care and support to all residents referred by ECC regardless of any disability or other conditions and will support ECC, and the Providers to stabilise the workforce, capacity or demographic issues.
- 3.2.7. A Provider may be suspended or removed from the list at any time during the Contract if they do not maintain the minimum Quality Threshold.
- 3.2.8. Key Performance Indicators (KPIs) will be detailed within the service contract; the data collected via the KPIs will be used to measure the Provider performance and their position on the ranked list.
- 3.2.9. Suppliers not on the framework will be permitted to bid for inclusion on the Ranked List at each of the annual Ranked List review dates. New entrants will be evaluated on the basis of the original tender criteria.

3.3. The Ranked List

- 3.3.1. All Providers awarded onto the Live at Home Framework will be included onto the Ranked List. The Rank List is defined by districts and Providers are able to advise in which districts they are able to provide care.
- 3.3.2. In order to be admitted to the Ranked List, Providers will be evaluated on a best value basis, assessing a Providers pricing and quality submissions. Provider quality will be assessed against set criteria that will ensure quality provision and providers will be required to select a price from pricing matrix developed by ECC. Provider's scores for quality and price will then be added together to produce an overall score. This overall score will then dictate the Provider's position on the Ranked List. Providers will be ranked on the basis of their overall score in descending order, with the provider achieving the highest score being awarded first place on the Ranked List. The Best Value criteria will be as follows:
 - (a) 70% price – Bidders are free to choose prices from the set price matrices. The prices chosen by the Provider will be scored, with the lowest price scoring the highest marks. ECC will reserve the right to amend the pricing matrix at any time to reflect legislative changes, e.g. National Living/Minimum Wage and at any Ranked List review point to ensure prices remain sustainable; and

(b) 30% quality - The minimum quality criteria will be set to ensure that Providers demonstrate they can deliver the service to the Council's quality standard. Providers that do not meet the minimum quality criteria will not be awarded a place on the Ranked List. Therefore, the 30% scoring allocated to quality will identify Providers with better quality/performance and as a result those with better quality/performance will be placed higher on the Ranked List. We have set the quality criteria at 30%, rather than at a higher figure, as we will establish much higher quality criteria for general acceptance to the list than has been set previously.

3.3.3. When reviewing the quality/ performance elements of the Ranked List at each of the quarterly/annual Ranked List review dates, defined criteria set out in KPIs, will be taken into account in determining the Provider's quality/performance score for the re-ranking. Consistent poor performance on the Ranked List will impact on the Provider's future position on a re-ranked list.

3.3.4. The minimum quality criteria will be kept under review to ensure that Providers continue to meet the minimum quality criteria and to account for performance since the original tender process or the previous Ranked List review date (as appropriate). The pricing and quality/performance scores will then be added together to produce an overall score and the overall score will be used to determine the Provider's new position in the revised Ranked List. ECC will also reserve the right the right to review the quality/performance elements of the list as appropriate to potentially allow for the list to be re-ranked on a more frequent basis to be determined by officers.

3.3.5. The Ranked List will be reviewed on a quarterly basis, this will be in accordance to KPIs and monitored by ECC. Providers will be re-ranked based on their KPIs and Provider quality reports received from Provider inspections and internal reports. Providers' pricing will remain as selected at the Invitation to Tender or previous Ranked List review point. Providers will only be permitted to select a new price at the ranked list review points.

3.4. Enhancements

3.4.1. An 'Enhancement Premium' is incorporated into the Live at Home Framework Model for exceptional circumstances where ECC agrees that this is needed to support or deliver services to an individual adult. An example of this could be an adult with complex needs, such as high-end dementia.

3.4.2. The Enhancement Premium will be applied by ECC where an adult meets the defined criteria or it is evident that use of a premium is justified because an adult has specific complexities.

3.4.3. An Enhancement Premium will be subject to review on a regular basis or if a change of circumstances occurs.

3.4.4. If an adult's circumstances change and they no longer meet the criteria the Enhancement may be removed.

3.4.5. ECC may alter or remove an 'Enhancement Premium' from the Live at Home Framework Model at a Ranked List review point.

3.5. Target Supply Areas

- 3.5.1. A 'Target Supply Area (TSA)' premium is incorporated into the Live at Home Framework Model. ECC will be able to apply this where it is clear that there are supply issues in a specific District or Ward. These are generally likely to occur if there is workforce capacity or demographic issues.
- 3.5.2. At present, around 55% of placements are made via the BVRL process, the rest are spot placements. The proportion of spot placement has increased significantly in the last two years; an increase that has been exacerbated by supply issues, particularly (though not exclusively) in rural areas and the difficulties in recruiting carers. In future it is proposed that to address these concerns and help reduce the need to 'spot' purchase in these areas, the Council will have the discretion to nominate Wards where difficulties exist. Where a Ward is nominated as a TSA, a premium price will be paid for new packages of care.
- 3.5.3. The TSA premium rates, where applied would remain for the life of a package. TSAs will be monitored on a monthly basis to ensure the TSA premium is easing supply difficulties.
- 3.5.4. A TSA premium will not be paid for night services or 24 hour services.
- 3.5.5. The TSA will be reviewed annually and will be changed to meet TSA supply or demand over a fixed period. Providers will be notified if and when the TSAs change. ECC reserve the right to stop using and or amend TSAs at any time, if it is clear that supply issues in the areas designated as TSAs are no longer a problem, or the approach is not having the desired impact on securing supply.

3.6. Placement process for Providers on the Live at Home Framework

- 3.6.1. Adults will be placed with Providers on the Live at Home Framework on the following basis:
 - (a) Where an adult specifies a particular Provider and that Provider is on the Live at Home Framework;
 - (b) Where an adult does not express a preference or does not wish to take a Direct Payment, they will be offered the Provider ranked highest on the relevant Ranked List that has capacity to deliver the adult's outcomes. Should an adult not wish to be placed with the first-ranked Provider, they will be offered the next Provider on the list; and
 - (c) If an adult specifies services from a particular Provider outside of the Live at Home Framework, they will be offered a Direct Payment (or Individual Service Fund).
- 3.6.2. It is anticipated that the Live at Home Framework will reduce the number of spot packages, however ECC reserve the right to use spot providers if unable to source packages on the Live at Home Framework.

- 3.6.3. The placement process for the Service Placement Team (SPT) will be included within the service specification to ensure Providers are aware of the planned process from 2017. ECC will reserve the right to make alterations as and when system and business changes are necessary, or if improvements have been defined.

3.7. Implementation of the Live at Home Framework

- 3.7.1. It is proposed that the Live at Home Framework will apply from 12 February 2017. From this date, new work will be allocated to Providers on the Live at Home Framework in accordance with the new ranked list.
- 3.7.2. Any subsequent changes to the pricing will link into the following financial year, which is April 2018 onwards and will be linked ECC's four-weekly payment cycle.
- 3.7.3. All care packages in place at the start of the framework will be paid at their current rate unless that rate is below the minimum rate for that district/speciality in which case the minimum price will be paid instead.
- 3.7.4. The Live at Home Framework will be reviewed annually to ensure that the Framework supports the growth and stability of the market.
- 3.7.5. ECC reserve the right to make alterations to the Live at Home Framework to support the direction of the Local Authority. This includes transformational and cultural change to support the end vision of the Local Authority.

4. Policy context and Outcomes Framework

- 4.1. A Vision for Essex 2013-17 builds on and replaces the previous EssexWorks Commitment 2012-17 and was approved by Cabinet on 18 June 2013 subject to formal adoption by Council on 9 July 2013.
- 4.2. It sets out the Cabinet's vision and priorities, and informs the development of a revised corporate strategy designed to:
- a) Increase educational achievement and enhance skills;
 - b) Develop and maintain the infrastructure that enables our residents to travel and our businesses to grow;
 - c) Support employment and entrepreneurship across our economy;
 - d) Improve public health and well-being across Essex;
 - e) Keep our communities safe and build community resilience; and
 - f) Respect Essex's environment.
- 4.3. The Vision for Essex is based on the following principles;
- a) We will spend taxpayers' money wisely;

- b) Our focus will be on what works best, not on who does it;
- c) We will put residents at the heart of the decisions we make;
- d) We will empower communities to help themselves;
- e) We will reduce dependency;
- f) We will work in partnership; and
- g) We will continue to be open and transparent.

4.4. The proposals in the report is consistent with those principles as follows:

- a) It will spend taxpayers' money wisely by minimising the need for on-going and more costly support care services through increased independence and independent living;
- b) It will put residents at the heart of the decisions we make by ensuring providers understand what good looks like for residents and their aim of independence; and
- c) It will reduce dependency on services by increasing independence and independent living.

4.5. The Corporate Outcomes Framework has an outcome of increasing the proportion of people who live independently. The proposed contract will improve the accessibility to Live at Home Services and will therefore make a contribution to the delivery of this outcome.

4.6. The Care Act 2014 governs the delivery of social care by local authorities. Local authorities are required to adhere to the following principles whilst delivering social care services:

- a) Wellbeing - a broad concept, which should be embedded within all care and support services, it includes: personal dignity; physical and mental health and emotional wellbeing; protection from abuse and neglect; control by the individual over day-to-day life; participation in work, education, training or recreation; social and economic wellbeing; domestic, family and personal; suitability of living accommodation; and the individual's contribution to society;
- b) Prevention - a duty to prevent or delay the onset of needs from developing, this applies to all adults, regardless of their current needs or eligibility including carers;
- c) Carers' rights – a duty that entitles informal carers to care and support that takes into account their needs for a full life;
- d) Assessment – a duty to identify the person's needs and impact on their wellbeing, and the outcomes that the person wishes to achieve. Consideration if the person would benefit from the preventative services, facilities or resources including those available in the community. The person's own capabilities and potential for improvement should be taken into account;

- e) Eligibility – care and support is subject to eligibility of need and financial means, which are set nationally;
 - f) Care and Support planning - care and support should put people in control of their care, with the support that they need to enhance their wellbeing and improve their connections to family, friends and community;
 - g) Personalisation - 'Meeting needs' should recognise that everyone's needs are different and personal. Local authorities must consider how to meet each person's specific needs rather than considering what service they fit into;
 - h) Safeguarding – to stop abuse or neglect wherever possible based on the key principles of empowerment, prevention, proportionality, protection, partnership and accountability.
- 4.7. The procurement of Live at Home Services using a Ranked List Framework Model enables ECC to adhere to the Care Act Principles in the following ways:
- a) Adults with needs will be at the heart of the decisions surrounding how they achieve their outcomes, with input from their families and informal carers. This will mean that they know exactly how they will be supported and it helps them achieve the outcomes they want;
 - b) Informal carers are included as part of the decision making process, recognising that they are expert partners in care; and
 - c) The wellbeing of residents will be measured not just through the tasks that are performed on them, but on how they achieve their outcomes, including social interactions, mental health and emotional wellbeing.

5. Financial Implications

- 5.1. This paper seeks approval to go out to market to procure domiciliary care for a Live at Home service by way of a framework contract to run from 12 February 2017 for four years. Any subsequent changes to the pricing will link into the following financial year, which is from April 2018 onwards and will be linked to ECC's 4 weekly payment cycle.
- 5.2. ECC will reserve the right to amend the pricing matrix at any time to reflect legislative changes, e.g. National Living/Minimum Wage and at the annual Ranked List review points to ensure that prices remain sustainable. It is expected that the changes to the Corporation Tax rate and efficiencies through market optimisation will be realised in these price changes.
- 5.3. The current spend on the Live at Home service is £92m providing services for over 15,000 clients. This reflects the change in scope of the service which now excludes domiciliary care packages delivered in an Extra Care, Supported Living or Intensive Enablement setting.

- 5.4. Expenditure on this service is split with £52m purchased through the current Best Value Ranked List ('BVRL') contracts with the remaining £40m per annum spent on spot placements. It is expected that a number of existing spot providers will join the framework contract thus improving the mix between the amounts of care purchased on spot placements and the framework.
- 5.5. ECC are required to have a legal procurement framework in place for domiciliary care, but in its absence ECC would have to spot purchase placements until a replacement contract could be implemented. Spot contracts in most cases have a higher cost than a contract placement.
- 5.6. Therefore based on current placements and predicted prices, the additional cost to pressure on ECC expenditure would be between in the region of £6m - £7m per annum, if this procurement were not undertaken.
- 5.7. Once we have received the bids from providers as part of the tender process we will assess the financial implications and confirm the budget position. This will form the basis of the report to the Cabinet Member for Adults and Children to authorise the award of contracts following completion of the procurement process as recommended in paragraph 2.2.

6. Legal Implications

- 6.1. Live at Home (Domiciliary Care Services) fall within 'social and other specific services' within Schedule 3 of the Public Contracts Regulations 2015 and the total contract value is estimated to exceed the threshold of £589,184. As a result, the procurement of a new Ranked List is subject to the 'light touch regime' of section 7 of Chapter 3 of the Regulations.
- 6.2. Section 7 of Chapter 3 of the Regulations requires ECC 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, please see paragraph 6.13 below).
- 6.3. 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.

7. Staffing and other resource implications

- 7.1. There may be some small staffing implications for ECC's supplier relationship management team, but that will depend on the numbers of Providers who are placed on the new Ranked List. The resource implications will be reviewed once the tender responses have been received.

- 7.2. The SPT Team will require training and support for the implementation of the Live at Home Framework for February 2017. This will include initial training around the operating model, training any system changes and cultural changes with providers if necessary to support the new Live at Home Framework.
- 7.3. Engagement with Adult Operations will be necessary to ensure any changes are reflected in working practice.

8. Equality and Diversity implications

- 8.1. Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when ECC makes decisions it must have regard to the need to:
 - a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
 - 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.
- 8.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, marriage and civil partnership status, religion or belief, gender and sexual orientation.
- 8.3. 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.
- 8.4. In line with the Care Act 2014, the need for Providers to respect the cultural and religious beliefs of any of those in receipt of the service and to engage with these cultural and religious beliefs when achieving their outcomes is embedded into the contract documents.

9. List of Appendices

- 9.1. Equality Impact Assessment

10. List of Background Papers

- 10.1. None