

Forward Plan reference number: FP/042/02/24

Report title: Award of Framework Contracts for Residential Care for Adults with Complex Learning Disabilities	
Report to: Councillor John Spence, Cabinet Member for Health, Adult Social Care and ICS Integration	
Report author: Nick Presmeg – Executive Director, Adult Social Care	
Date: 13 February 2024	For: Decision
Enquiries to: Robert Sier, Commissioning Manager: Strategic Policy and Commissioning (ASC)- robert.sier@essex.gov.uk Nick Green, Procurement Specialist, Procurement Services, nick.green@essex.gov.uk	
County Divisions affected: All Essex	

1. Everyone's Essex

- 1.1. Everyone's Essex seeks to achieve renewal, equality, and ambition across all cohorts of our population, and this must include reaching out to the most vulnerable and complex parts of our society. The care of those with the most complex needs gives us the opportunity to make a significant difference to the lives of these individuals by enhancing the consistency of care quality and ensuring much more of it takes place within the county, in easier travelling distance of the families of those we are supporting. One of the Everyone's Essex commitments is to help vulnerable people to live independently and live a life which is meaningful to them.
- 1.2. Consistent with achieving this commitment, this report seeks approval to add additional providers to the existing Framework for Residential Care for Adults with Complex Learning Disabilities and/or Autism, which was set up in January 2023, by awarding framework contracts to providers following a re-opening of the Framework.

2. Recommendations

- 2.1. Agree to award a framework contract to the five (5) successful providers listed in Appendix B to this report with effect from 1 April 2024 until 26 March 2027 with an option to extend by up to two years at the discretion of the Council.

3. Background and Proposal

- 3.1. The Council has a responsibility under the Care Act 2014 to commission residential care services for adults with learning disabilities and/or autism (LDA) who have complex support needs. The Council's strategy remains to move away from residential services for the majority of the adults who are eligible for support,

but there is strong demand for residential services for adults with LDA who have complex support needs and/or behaviours that challenge. These residential services provide a robust, safe environment and person-centred support that will help these individuals live lives meaningful to them and potentially enable them to develop new skills and transition into more independent accommodation in the future.

- 3.2. In order to source good-quality, complex residential care, a Framework Contract was awarded on 26 March 2023 to 24 providers that have suitable accommodation and staff to ensure good-quality, modern and appropriate provision for adults with complex care needs and/or behaviours that challenge (Cabinet Decision taken in May 2022 (FP/340/03/22) and Cabinet Member Action to award contracts in January 2023). A framework process enables an open and transparent referral process to be used when needed to call off a placement for an adult.
- 3.3. The Director, Strategic Commissioning and Policy took a decision in July 2023, approving the re-opening of the Framework and, in accordance with the terms of such Framework, the Council ran a single-stage, open process which was open to the entire market.
- 3.4. In response to the Framework re-opening tender, the Council received bids from 12 new providers. These bids were evaluated in accordance with the advertised evaluation criteria being 30% price and 70% quality, of which 10% of the quality score assessed social value.
- 3.5. Price was evaluated on an individual home basis using the Care Cubed benchmarking tool and 15% tolerance above the benchmarked rate.
- 3.6. Where a provider's rates exceeded the published benchmark and tolerance, the provider was notified and given the opportunity to reduce its costs. Where rates could not be agreed, the provider will be awarded a Framework contract but homes will not be added until the rates are brought in line with the benchmarked rates.
- 3.7. All residential homes that are proposed to be added to the Framework are confirmed to have a CQC rating of 'Good' or 'Outstanding', or have been audited and approved to the satisfaction of the Council to be on the Framework where they have received a 'Requires Improvement' or 'Poor.'
- 3.8. Quality questions in the tender process covered topics including:
 - Increasing Independence and Progression
 - Placement Sustainability
 - Staff Training and Capability
 - Safeguarding
 - Social Value
- 3.9. Following evaluation of the bids, a total of five (5) providers and seven (7) homes have been successful to progress to award. The successful providers and the relevant homes are listed in Appendix B to this report. There are three (3)

providers that have brought forward homes to the Framework at this time, with two (2) providers being admitted to the Framework without homes being proposed at this time.

- 3.10. Seven (7) providers who participated in the tender process have been unsuccessful in joining the Framework – they will be provided with appropriate feedback on their bids.
- 3.11. After the award of these Framework Contracts, the Framework will have 24 providers and 74 homes.
- 3.12. Following award of the new contracts, the provider list for the Framework will be re-ranked on overall tender score (combined cost and quality (including social value)) in accordance with the terms of the Framework.
- 3.13. For any standard call-off, the ranked list process in the Framework will be used to identify three suitable homes and then the placement will be made at the home which is the best match for the needs of the adult. A bespoke call-off process will be used where a standard call-off does not identify any suitable providers.
- 3.14. Providers already on the Framework are permitted to submit new homes to be added at any time during the Framework, provided such homes meet the Council's requirements for complex residential care set out in the original tender documents. Following any new homes being added, the ranked list will be adjusted in line with the terms of the Framework. This will increase the number of homes and services for the cohort and encourage providers to continue to engage with the Framework.
- 3.15. The Framework may be re-opened again at the Council's sole discretion up to three times within a contract year to allow new entrants to bid to join the Framework. Any re-opening of the Framework will be on the same requirements as the original procurement process, subject to any legislative changes or changes to comply with any relevant guidance. Existing providers will also be permitted to adjust their costs for new placements, but not to re-price any existing placements. Where any bidder's or existing provider's rates for any home exceed the benchmark and tolerance of 15% built in, the provider/home will be excluded. Following any re-opening, the provider list will be re-ranked on overall score. A separate decision will be taken regarding any proposed re-opening of the Framework.

4. Links to our Strategic Ambitions

- 4.1. This report links to the following aims in the Essex Vision:
 - Enjoy life into old age
 - Strengthen communities through participation
- 4.2. Approving the recommendations in this report will have the following impact on the Council's ambition to be net carbon neutral by 2030:

- Neutral impact. The Service Specification for the service encourages residential care providers to consider energy efficiency and sustainability in practices of the home.

4.3. This report links to the following strategic priority in the emerging Organisational Strategy 'Everyone's Essex':

- Health wellbeing and independence for all ages

5. Options

5.1. Option 1: Award contracts to the successful providers (recommended)

It is recommended that contracts be awarded, and providers added to the Framework to ensure that the Council:

- has access to and visibility of good-quality complex residential care going forward to provide more options for adults
- can encourage providers to develop new complex residential care services throughout the life of the Framework to meet the cohort's needs in line with the new standard service specification and increase the focus on building the skills of the adult, therefore reducing episodes of challenging behaviour and reliance on services, and improving quality of life outcomes
- is better able to predict future care costs and help keep costs more stable
- has a better understanding of the complex residential care market
- can improve the quality of providers by having consistent quality selection by use of CQC ratings as a standard requirement

5.2. Option 2: Do nothing and do not award contracts

Failure to award the contracts and add the successful providers and homes to the Framework would require the Council to continue to award placements with those providers via spot arrangements which is not compliant with the procurement regulations and would not deliver the benefits set out in Option 1 above.

6. Issues for Consideration

6.1. Financial implications

6.1.1. There are no financial implications directly associated with this decision at this time, as allowing additional providers onto the Framework does not commit any spend. Existing packages are budgeted for within the overall draft 2024/25 Medium Term Resource Strategy (MTRS) at their current cost.

6.1.2. The right residential placement can support adults to maintain or gain independence, enabling meaningful access to the community and achieving their desired outcomes. For this reason, a robust selection of residential homes is crucial to offer choice and the right support, and achieving this also delivers the most financially advantageous option.

6.1.3. In the longer term, there is potential for the Framework to deliver savings; as the market develops with Essex, there should be a decreasing need to place people out of county. On average, an out-of-county placement is more expensive than an in-county. In addition, social worker time is saved through reduced travel and the family are closer for support. It is not possible currently to quantify these savings as they are dependent on the market development over the next four years.

6.2. Legal implications

6.2.1. These services are subject to the 'light touch' regime in the Public Contracts Regulations 2015. ECC can use one of the main procurement routes, such as the open procedure, for light touch services but is not obliged to.

6.2.2. There are no specific procedural rules in the Regulations that cover the awarding of call-offs from 'pseudo' frameworks, but the general requirements around transparency and treating suppliers equally must be complied with.

6.2.3. For this reason, the procedure and tender requirements used for the re-opening of the Framework Agreement, and the evaluation of the bids, must be carried out in accordance with the published evaluation criteria and open to all bidders.

6.2.4. The Public Services (Social Value) Act 2012 replaces a requirement on contracting authorities to consider, when procuring services, how the economic, environmental and social wellbeing of the local area may be improved and how this can be delivered through the procurement.

6.2.5. Contracts should be awarded on the basis of the most economically advantageous tender and qualitative, environmental and/or social aspects should be linked to the subject matter of the contract.

7. Equality and Diversity Considerations

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 Equalities Comprehensive 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

8.1. Appendix A - Equalities Comprehensive Impact Assessment

8.2. Appendix B – List of Successful Providers and Homes

9. List of Background Papers

None declared.

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor John Spence, Cabinet Member for Health, Adult Social Care and ICS Integration	15.03.24

In consultation with:

Role	Date
Executive Director, Adult Social Care	12.3.24
Nick Presmeg	
Executive Director for Corporate and Customer Services (S151 Officer)	16.2.24
Laura Davis-Hughes, Head of Finance Adults on behalf of Stephanie Mitchener, Director of Finance	
Director, Legal and Assurance (Monitoring Officer)	13.2.24
Katie Bray on behalf of Paul Turner	