

Forward Plan reference number: FP/597/12/22

Report title: Annual Review of the Live at Home Framework 2023/24	
Report to: Cabinet	
Report author: Councillor John Spence, Cabinet Member for Adult Social Care and Health	
Date: 21 February 2023	For: Decision
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County Divisions affected: All Essex	

1. Everyone's Essex

- 1.1 Our ambition is that we help people with care needs to live as independently and safely in their own homes as they can, and to ensure they have the support they need to promote their wellbeing and quality of life.
- 1.2 This is set out in Everyone's Essex, the council's ambitious four-year plan, as a commitment and ambition to improve and support the health and wellbeing of the county's residents.
- 1.3 At the same time, the Care Act (2014) places a legal duty on local authorities to promote a sustainable, diverse, and vibrant market for care and support that delivers high quality services for all local people (however that care is funded). Under the Act, Essex County Council has a statutory duty to meet eligible needs. Providing domiciliary care (also known as homecare) and support is one way to meet those needs.
- 1.4 The Council recognises the critical and valued work that care workers across Essex perform, supporting the most vulnerable people in our society. The Council also recognises the exceptionally challenging economic climate for the care market, in the light of high inflation, increasing interest rates, and high and rising energy costs. On 6th February, the Government published a policy paper on social care alongside the final local government settlement, making clear that additional funding provided to councils should help address discharge delays, social care waiting times, low fee rates, and workforce pressures. The detailed grant conditions are still awaited.
- 1.5 The Council is committed to doing what we can to increase funding in the care market and ensure that the sector as a whole is sustainable. We want to make our framework contracts more attractive for care providers to work with us on, and we want to invest in the homecare market so that we can help to grow capacity and enable providers to improve terms and conditions for their workforce and help address cost of living challenges.

- 1.6 This report therefore seeks approval to undertake the Annual Review Process of the Live at Home framework and proposes increases of up to 14.6% to the rates paid to domiciliary care providers on the framework.
- 1.7 This decision will support the national objectives set out in paragraph 1.4 and allow the securing of necessary system capacity whilst we continue to work with system stakeholders to develop our longer-term strategy and drive further service improvements.
- 1.8 A further report will come to a future meeting of the Cabinet, setting out further proposals about how the Council will invest in the care market to address key market challenges and support improved terms and conditions for care workers, with recognition that the domiciliary care market is a priority area for supporting.

2. Recommendations

- 2.1. Agree that we will not open the Live at Home Framework to new providers for 2023 but that we will re-open pricing to enable providers currently on the framework to submit new prices based on the matrices in appendix A, which represents an 11.8%-14.6% increase in the rates.
- 2.2. Agree to uplift existing packages of domiciliary care (excluding night sleep and 24 hour live-in care) with effect from 2 April 2023 so that:
 - (a) Packages provided under the framework are increased by £2.84 per hour (including consolidation of the £1.12 per hour temporary uplift approved in October 2022) and
 - (b) Packages not provided under the framework will be uplifted to £22.32 per hour if they are currently less than that.
- 2.3. Agree to allow eligible providers on the older people, mental health and physical/sensory impairment live at home framework who are not currently classified as a 'tier 1 provider' to apply to become a tier 1 provider, enabling them to be considered a priority for new packages.
- 2.4. Agree to make payments to backdate any increases to providers to 2 April 2023.
- 2.5. Agree that the Executive Director of Adult Social Care will make the decisions on the new ranked lists resulting from the above changes.

3. Background and Proposal

- 3.1. The Council's strategic ambition is to enable more people to be able to be supported for as long as possible in their own homes, where that is the most appropriate and desired place for them. Investing in, and growing capacity

within, the domiciliary care market is an important way the Council can support people to be cared at home, to reduce avoidable admissions into residential care homes, and to support hospital discharge processes.

- 3.2. The Council has a responsibility to secure the provision of long-term domiciliary care to those adults who need it, and as far as possible, the Council provides that care in people's own homes. In order to ensure that this care and support can be accessed as easily and cost-effectively as possible, the Council has set up a framework agreement for personal care and support services to be provided. This is known as the Live at Home framework and the current one was put in place in August 2021. Where placements cannot be made using the Framework Agreement, a spot purchase contract may be used.
- 3.3. The current framework has a four year term. It includes a contractual mechanism to place adults requiring long term domiciliary services with good quality providers that can meet their eligible assessed needs. The framework covers a number of service types including personal care, carer's support, carer's break, night awake, night sleep and 24-hour live-in care. There are 111 providers on the framework. Of the 111 providers, 85 have positions on the standard personal care ranked lists. A further 26 providers are only on the 24 hour / live-in care ranked lists. Most providers are on more than one list. Some providers on the framework have been assessed as tier 1 or tier 2 providers who meet quality standards and are given priority to accept work under the framework. Tier 1 providers offer the highest quality services.
- 3.4. Packages of care are offered in order of the highest ranked tier 1 provider then if no tier 1 provider will accept the package it is offered to tier 2. Every year we provide a range of prices for each lot of the framework and providers select a point on the range.
- 3.5. The Council has a strategic ambition that as much care as possible will be supplied via those providers on the framework. If the proportion of work placed with Tier 1 and Tier 2 providers increases and the capacity of these providers grow, the Council will be able to move work away from the spot market focussing initially on the high cost, lower quality spot provision.
- 3.6. However, since the commencement of the framework, there has been a downwards trend in the proportion of packages commissioned through the framework. In the three months prior to the commencement of the current framework (May to July 2021) 69% of new care packages were commissioned through the previous framework. This reduced to 60% at the first framework review for the current framework (April 2022). Currently 52% of care packages are being delivered by framework providers. Typically, around 6,400 adults receive domiciliary care a week, equating to 118,000 hours. Around 68,000 hours of this are delivered by framework providers.
- 3.7. Feedback from framework providers highlighted difficulties in staff recruitment resulting from a combination of factors, including the effects of the pandemic, inflationary pressures and difficulty in paying staff with the money received on

the rate that the provider has selected. The rates can be reviewed during the annual review.

- 3.8. Based on that feedback and our ambitions to grow and develop the care at home market, this paper proposes an increase of up to 14.6% in the framework rates from April 2022. This would be achieved by increasing all the rates on the pricing matrices by £2.84 (which includes the £1.12 temporary uplift). The proposed new rates are at appendix A.
- 3.9. At the time of the last framework review in April 2022, there were significant issues with sourcing care. There were 178 people for whom we could not find care, amounting to 1,786 hours per week of unsourced care. This was an unprecedented level and it continued into summer 2022, when the weekly hours of unsourced care peaked at about 2,100 hours a week. Where there is no alternative support available, the Provider of Last Resort service is deployed whilst long term care is being sourced.
- 3.10. A range of initiatives were put in place to address capacity challenges, and as a result, the volume of unsourced care has been falling since August 2022. Currently there are 28 people who don't have a long-term care provider amounting to 281 hours per week.
- 3.11. Availability of care across the county is currently overall good but there are pockets where there is a lack of provision. This is typically linked to areas where there is more travel time between care visits, often in rural areas. The Council is looking to attract more framework suppliers into these areas. These areas have been designated within the framework as Target Supply Areas (TSAs) and suppliers may select a TSA rate, in addition to their base rate, to cover the higher travel costs. Included in appendix C is a proposed increase in TSA rates for new packages only and changes to the TSA status of some wards depending on the level of framework provision, reflecting the market shaping objectives to increase framework capacity in these wards, reducing the reliance on spot provision and rationalise the market.
- 3.12. In the autumn of 2022, local authorities were asked to undertake a 'fair cost of care' exercise for domiciliary care and also for older people's residential care and to submit findings to Government in October 2022.
- 3.13. In October 2022, the Council administered grant funding of £3.9m from central government to the domiciliary care market in order to increase some hourly rates, to move their rates closer to the provisional output from that exercise. In line with our market shaping ambitions, the majority of this grant funding was used to increase rates for existing personal care packages delivered by framework providers. The selected rates for all existing personal care packages held by framework providers were temporarily increased by £1.12 per hour from 30 October 2022 to 31 March 2023. Also, these providers received grant funding of £1.12 per hour for care delivered from 3 April to 29 October 2022 to be used to support recruitment and retention. The grant funding was also used to increase the hourly rate to £20.60 for all other domiciliary personal care

packages below this rate. This enabled providers to offer more competitive rates in an attempt to attract staff into the sector and improve market capacity.

- 3.14. This decision makes permanent the £1.12 uplift for LAH providers and uplifts rates by a further £1.72.
- 3.15. On 6th February, the Government published a policy paper on social care alongside the final local government settlement, making clear that additional funding provided to councils should help address discharge delays, social care waiting times, low fee rates, and workforce pressures. The new monies announced for social care in the Autumn Statement provide an additional opportunity for the Council to invest in the domiciliary care market, which would be in addition to the decisions in this report.

Proposals for funding

- 3.16. It is proposed to reopen the annual framework to enable providers to amend their prices and bid to join tier 1 and increase the number of packages offered to them volume, as outlined in Appendix C, and select prices from the revised pricing matrix at appendix A. All providers will be required to submit rates for newly commissioned packages from the revised pricing matrices.
- 3.17. The price points have been increased by 11.8%-14.6%. This will encourage providers to remain on the framework and should help providers to retain and recruit staff and increase the proportion of packages sourced with framework providers. This will see the lowest framework rate being £22.32 per hour and the highest being £25.72 per hour (£26.92 in Epping only). It is also proposed to increase the 'target supply area' premiums paid at different rates in particular areas where there is a need to increase supply, increasing them from £1.40 and £2.80 up to £2 and £4 respectively.
- 3.18. The actual increase is £1.72 plus consolidation of the current £1.12 per hour which is being paid temporarily. This amounts to an increase of up to 14.6% and an uplift of £2.84 per hour in total (including making the £1.12 permanent).
- 3.19. An uplift of £2.84 means that the highest price point on the new price matrix excluding Epping is £25.72. The emerging median rate from the FCoC exercise for 2022/23 is £23.42. If an inflationary uplift of 8.5% is applied, the median rate for 2023/24 would be £25.41. This means that all providers have the option to charge more than this by selecting a higher point on the matrix.
- 3.20. The increase will support all providers on the framework to recruit and retain staff in order to maintain their current staffing levels, regardless of the volume of new referrals they accept.
- 3.21. It is also proposed that all current packages of domiciliary care, whether spot purchased or purchased via the framework are uplifted to at least a minimum of £22.32ph. This is intended to support spot providers' financial viability, mitigating the risk of packages being terminated.

- 3.22. The necessary changes to the Council's financial systems will take significant time to implement. This means it is unlikely that the review process will be completed and implemented by the anniversary of the framework, which is 1 April 2023. In order to provide assurance to the market it is proposed that changes will be backdated to 2 April 2023.
- 3.23. The proposals within this report do not impact services commissioned through the Supported Living contracts, Reablement and Additional Reablement contracts and the Extra Care contracts. They also do not impact on the block contracts issued to providers to cover particular shortages in Uttlesford and Braintree districts or the Provider of Last Resort service commissioned via 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
 - Develop our County sustainably
 - Connect us to each other and the world
- 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:
- Increasing use of hybrid and other alternative vehicles
 - Walking rounds and locally employed carers to minimise travelling requirements
 - Using data and technology to support needs
- 4.3. This report links to the following strategic priorities in the emerging Organisational Strategy 'Everyone's Essex':
- A strong, inclusive and sustainable economy
 - A high quality environment
 - Health wellbeing and independence for all ages
 - A good place for children and families to grow

5. Options

5.1 Option 1: Undertake an Annual Review process, uplift new and existing personal care rates and amend TSA rates and areas for new packages. (recommended)

- 5.1.1 This option will mean that the market is better able to provide the home care capacity needed on an ongoing basis and should result in building some resilience into the personal care system.

- 5.1.2 It also supports the market to increase supply in the hard to source areas of the county.

5.2 Option 2: As option 1 but with the exclusion of any amendments to TSA rates and areas.

- 5.2.1 This option would support the market to increase capacity generally however it does not seek to address the lower levels of supply in wards where there is more travel time needed so risks a reverse in the downward trend in unsourced care levels in TSA wards.

5.3 Option 3: Do nothing

- 5.3.1 Doing nothing would mean not uplifting the minimum rate for standard personal care and not allowing providers to select prices for new packages, all of which would support providers to remain financially sustainable.
- 5.3.2 This is likely to result in a greater reliance on the spot market for care provision where there is less control over price and quality.
- 5.3.3 Furthermore, it is also likely to result in a reduction in capacity for council funded provision as providers may choose to focus on developing their private customer base where they can charge higher rates. This would expose the Council to the risk that it would not be able to source all the home care it needs to support the people of Essex.

6. Issues for consideration

- 6.1.1. Consideration of the potential risks as a result of the Annual Review Process, appropriate measures have been taken to mitigate these risks where possible.
- 6.1.2. Additional work will be required to update rates and provider information which is managed within our Social Care Case Management systems.

6.2. Financial implications

- 6.2.1. The Adult Social Care budget for 2023/24 includes provision for the cost of long-term domiciliary care (including Supported Living and Extra Care) while taking account of inflationary and demographic pressures. The projected volumes assumed in the budget are based on data for October 2022 for both the Live at Home framework and spot purchased packages. There is a risk that package costs increase during 2023/24 at a higher rate than assumed in October 2022 and if this materialises, any pressure will need to be managed within the overall Adult Social Care budget including the risk reserve.
- 6.2.2. The following table sets out the cost of the recommendations.

	Impact 2023/24 £'m
Uplifting framework rates by 8.5%	8.5
Continuation of £1.12	4.7
TSA amendment	0.7
Total annual impact	13.9

- 6.2.3. The additional £13.9m of costs will be funded through the Adult Social Care budget, including the use of the Market Sustainability and Improvement Funding Grant (MSIFG), this is a grant that sits within the Adult Social Care revenue budget, with a total value in 2023/24 of £13.9m. This grant includes the continuation of the Fair Cost of Care grant funding awarded in 2022/23 and will fund the permanent maintenance of the October 2022 £1.12 uplift (see decision FP/438/06/22). This is estimated to have an increased cost in 2023/24 to a total of £4.7m due to higher volumes (funding in 2022/23 was £4m).
- 6.2.4. The increase to TSA payments is expected to cost an additional £728,000, it does however mean we are more likely to be able to source care provision in the highlighted areas through framework providers rather than relying on spot in future, reducing the cost volatility associated with this approach. The grant will also fund the TSA increases giving a total forecast spend against the grant of £5.4m (£8.5m funded from revenue budget). The final terms and conditions for this grant have not yet been published, however an explanatory note from DLUHC has set out a high level view of the expected grant conditions which align to the proposals recommended in this report. Taking the decision ahead of confirmed terms and conditions ensures the annual refresh takes place within the contractual timescales and that providers can consider these proposals when choosing new prices. Should the detailed conditions of the grant when published not allow for the total funding requirement outlined here, the shortfall could be managed through the increase in the Social Care Grant, held within the Adults Transformation Reserve.
- 6.2.5. The financial modelling assumes that where a package is re-purchased, providers will choose the framework price on the same pricing point on the matrix as currently, albeit at the revised rate. There is a risk that providers may choose higher pricing points on the framework and that spot prices may increase. Modelling also assumes that the current split of hours paid for through the Live at Home framework and spot arrangements will be maintained. It is assumed that all packages will churn once a year. These are assumptions for modelling purposes, but the reality is likely to be different meaning that the impact on budget will be different. This will be evaluated once the framework has been opened and any materialisation of risk or opportunity will be dealt with as part of a separate decision. The maximum financial exposure of risk in relation to all providers choosing the highest price point is c£4m in 2023/24, eventual full year impact would be c£8m.
- 6.2.6. There is the risk that uplifting all packages by between 11.8% and 14.6% for the year 2023/24 could set a precedent for future uplift policy, this is not the

case and can be explained by the Fair Cost of Care work carried out during 2022/23 and the necessary one-off investment required to ensure Market Sustainability. This uplift would ensure there is a framework rate that providers can choose which is above the median rate from the Fair Cost of Care exercise undertaken in 2022/23 of £23.42ph, inflated to £25.41 in 2023/24.

- 6.2.7. It should be noted that the cost of domiciliary care activity covered by this report will depend on the actual split of framework and spot provision. Estimates in this report are based on current market insight but there is a risk that prices may be higher as spot prices are inherently volatile, and the balance of spot to framework placements, including providers choosing higher rates could change. The spend and placement types will be regularly reviewed during the year to ensure any issues are identified and to ensure that timely and appropriate mitigations can be put in place if necessary.
- 6.2.8. The MSIFG has been announced for 2023/24 and 2024/25 only, and there is a small risk that the funding ceases after this time. If that happened assumptions would need to be updated in the Medium-Term Resource Strategy (MTRS) where expenditure in this decision is permanent and funding is only announced for two years.

6.3. Legal implications

- 6.3.1 The recommendations relating to the Annual Refresh Process, Tier 1 Refresh Process and the amendment of pricing matrices and Target Supply Areas are all contractual mechanisms within the Live at Home Framework Agreement. The Council is therefore lawfully permitted to undertake these processes and amend the Live at Home Framework Agreement to implement such changes, where necessary.
- 6.3.2 The Care Act 2014 requires the Council to ensure that the fee levels charged for care and support are appropriate to deliver the care and support to the agreed quality, whilst also ensuring that the commissioned services are cost effective and good value for public money.
- 6.3.3 Further, the Care Act 2014 places a duty on the Council to promote and effective and efficient market for adult care and support.
- 6.3.4 The recommendations enable the Council to fulfil the obligations placed on the Council by the Care Act 2014 to ensure that the fees paid by the Council are appropriate and the Council's duty to facilitate and promote an efficient and effect market for the provision of adult care and support, whilst maintaining good value for money.
- 6.3.5 The framework agreement requires the framework to be announced 'on or around' the anniversary of the framework, which is 1 April, so it is important to do this as quickly as possible.

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, sex, 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: Recommended Pricing matrices
- 8.2. Appendix B: ECIA478742648 Annual Review of the Live at Home Framework 2023/24
- 8.3. Appendix C: Summary of proposals set out in this report for ease of reference

9. List of Background papers

- 9.1. Essex Adult Social Care Business Plan 2021-25