



Essex County Council

Cabinet

10:00	Tuesday, 15 September 2020	Online Meeting
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The meeting will be open to the public via telephone or online. Details about this are on the next page. Please do not attend County Hall as no one connected with this meeting will be present.

For information about the meeting please ask for:

Emma Tombs, Democratic Services Manager

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Essex County Council and Committees Information

All Council and Committee Meetings are held in public unless the business is exempt in accordance with the requirements of the Local Government Act 1972.

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via online video conferencing.

Members of the public will be able to view and listen to any items on the agenda unless the Committee has resolved to exclude the press and public from the meeting as a result of the likely disclosure of exempt information as defined by Schedule 12A to the Local Government Act 1972.

How to take part in/watch the meeting:

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Please note that an audio recording may be made of the meeting – at the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

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2	Minutes: 21 July 2020	7 - 12
3	Questions from the public A period of up to 15 minutes will be allowed for members of the public to ask questions or make representations on any item on the agenda for this meeting. No statement or question shall be longer than three minutes and speakers will be timed.	

If you would like to ask a question at the meeting, please email Democratic.Services@essex.gov.uk before 12 noon the day before (Monday 14 September).

4	Reopening of Framework for procurement of individual packages of support for children and young adults with special educational needs or a disability (FP/775/07/20) The Equality Impact Assessment is available online	13 - 20
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12 Dates of Future Meetings

To note that:

1. The next meeting of the Cabinet will take place on Tuesday 20 October 2020 at 10.00am. The meeting is expected to be held online.
2. Future meetings of the Cabinet will take place at 10am on the following dates (format to be confirmed):

2020

24 November and 15 December

2021

19 January, 23 February, 16 March, 20 April, 25 May, 22 June, 20 July, 21 September, 19 October, 23 November and 21 December

13 Urgent Business

To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

The following items of business have not been published on the grounds that they involve the likely disclosure of exempt information falling within Part I of Schedule 12A of the Local Government Act 1972. Members are asked to consider whether or not the press and public should be excluded during the consideration of these items. If so it will be necessary for the meeting to pass a formal resolution:

That the press and public are excluded from the meeting during the consideration of the remaining items of business on the grounds that they involve the likely disclosure of exempt information falling within Schedule 12A to the Local Government Act 1972, the specific paragraph(s) of Schedule 12A engaged being set out in the report or appendix relating to that item of business.

14 Confidential Appendix: Procurement of Programme Management for property-related capital works (FP/684/04/20)

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

15 Confidential appendix: Council's Corporate IT Systems Programme - exit and implementation (FP/709/05/20)

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

16 Urgent Exempt Business

To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.

Committee: Cabinet

Enquiries to: Emma Tombs, Democratic Services Manager
Emma.tombs@essex.gov.uk

Membership, Apologies, Substitutions and Declarations of Interest

Recommendations:

To note:

1. Membership as shown below
2. Apologies and substitutions
3. Declarations of interest to be made by Members in accordance with the Members' Code of Conduct

Membership
(Quorum: 3)

Portfolio

Councillor D Finch	Leader of the Council (Chairman)
Councillor K Bentley	Deputy Leader and Infrastructure (Vice-Chairman)
Councillor T Ball	Economic Development
Councillor S Barker	Customer, Communities, Culture and Corporate
Councillor R Gooding	Education and Skills
Councillor D Madden	Performance, Business Planning and Partnerships
Councillor L McKinlay	Children and Families
Councillor J Spence	Health and Adult Social Care
Councillor S Walsh	Environment and Climate Change Action
Councillor C Whitbread	Finance

Minutes of a meeting of the Cabinet meeting that was held remotely on Tuesday 21 July 2020

Present:

Councillor	Cabinet Member Responsibility
Councillor D Finch	Leader of the Council (Chairman)
Councillor T Ball	Economic Development
Councillor S Barker	Customer, Communities, Culture and Corporate
Councillor K Bentley	Deputy Leader and Infrastructure
Councillor R Gooding	Education and Skills
Councillor D Madden	Performance, Business Planning and Partnerships
Councillor J Spence	Health and Adult Social Care
Councillor S Walsh	Environment and Climate Change Action
Councillor C Whitbread	Finance

Councillors Mackrory, Pond, Henderson, Grundy, Turrell, Weston, Wood, Mitchell, Hedley and Steptoe were also present.

1. **Membership, Apologies, Substitutions and Declarations of Interest.**

The report of Membership, Apologies and Declarations was received and the following were noted:

1. There were no changes to membership since the last meeting of Cabinet.
2. Apologies for absence were received from Cllr L McKinlay (Cabinet Member for Children and Families) and Mr Gavin Jones, Chief Executive.
3. There were no declarations of interest.

2. **Minutes: 26 May 2020**

The minutes of the meeting held on 26 May 2020 were agreed as a correct record and would be signed by the Chairman.

3. **Questions from the public**

There were no questions from members of the public.

4. **2020/21 Financial Overview as at the First Quarter Stage (FP/693/05/20)**

The Cabinet received a report setting out the forecast financial position of Essex County Council's (ECC) revenue and capital budgets as at the first quarter stage of the 2020/21 financial year. The report advised that there was a forecast over spend of £12.3m (1.2%) against a net revenue budget of

£1bn. The over spend was directly driven by the additional costs and lost income or savings, resulting from the COVID-19 pandemic.

The Cabinet Member for Finance provided answers to questions raised by Councillors Henderson and Mackrory in respect of the funding gap resulting from the COVID-19 pandemic, and the establishment of a multi-disciplinary team in Tendring. Further written replies would be provided to Councillor Henderson with regards to where monies would be allocated from the £1.4m welfare fund, and to Councillor Mackrory regarding ongoing funding arrangements for the multi-disciplinary team in Tendring and the position in respect of dormant accounts.

Written responses would also be provided to Councillors Pond and Henderson by the Cabinet Member for Education and Skills in conjunction with the Cabinet Member for Education and Skills in connection with possible subsidies for school transport on commercial bus routes.

The Cabinet Member for Infrastructure would provide a written response to Councillor Mackrory in respect of the budgetary relationship between Parking Partnerships and Local Highways Panels. A written response would also be provided to Councillor Mackrory by the Cabinet Member for Environment and Climate Change Action in respect of the rephrasing of flood prevention works.

Resolved:

1. To draw down funds from reserves as follows:
 - i. **£5m** from the Reserve for Future Capital Funding to the Deputy Leader and Infrastructure portfolio to cover revenue expenditure on rectifying carriageway defects, environmental works and safety measures (section 5.9.ii). Whilst the Council has received grant funding towards this expenditure, the grant can only be applied to finance capital expenditure.
 - ii. **£2.6m** from the Emergency Reserve to the Health and Adult Social Care portfolio relating to the loss of Residential income as a result of the impact of COVID-19 (section 5.8.iii).
 - iii. **£828,000** from the Private Finance Initiatives (PFI) Equalisation Reserves to the Education and Skills portfolio in relation to Debden School PFI (£501,000) and Clacton Secondary schools' PFI (£497,000) (section 5.5.ii).
 - iv. **£320,000** from the Adults Digital Programme Reserve to the Health and Adult Social Care portfolio to fund projects such as bed finder, electronic home care and shared care records (section 5.8.iii).
 - v. **£186,000** from the Transformation Reserve to the Education and Skills portfolio to cover costs incurred on the Demand Responsive Transport project (section 5.5.ii)

- vi. **£175,000** from the Transformation Reserve to the Children and Families portfolio to support Divisional Based Intervention Team staffing (section 5.1.iii).
 - vii. **£156,000** from the Community Initiatives Fund Reserve to the Customer, Communities, Culture and Corporate portfolio to cover expenditure that was incurred in Quarter 1 (section 5.2.ii).
 - viii. **£247,000** from the Transformation Reserve to the Children Families portfolio to introduce a Multi-Disciplinary team in Tendring (section 5.1.iii).
2. To appropriate funds to reserves as follows:
- i. **£15.5m** to the Emergency Reserve and **£1.2m** to the General Balance from Health and Adult Social Care portfolio due to lower demand levels than originally anticipated for COVID-19 funding approved in relation to hospital discharge beds, staffing and special equipment. (section 5.8.iii)
 - ii. **£843,000** to the Private Finance Initiatives (PFI) Equalisation Reserves from Infrastructure portfolio in relation to A130 PFI due to lower in year predicted costs (section 5.9.ii).
 - iii. **£234,000** to the Private Finance Initiatives (PFI) Equalisation Reserves from Education and Skills portfolio in relation to Building schools for the future and Woodlands PFI (section 5.5.ii).
3. To approve the following adjustments:
- i. Retrospectively approve the draw down of **£650,000** from the Insurance Reserve to the Finance portfolio as part of the 2019/20 Provisional Outturn. A late insurance provision was charged against the Insurance Cost Recovery Account (ICRA) at Outturn due to a new claim being identified.
 - ii. Vire **£113,000** from the Economic Development portfolio to the Finance RSSS portfolio following the Place and Public Health management restructure (sections 5.3.ii & 5.14.ii)
 - iii. Vire **£29,000** from the Children and Families portfolio to the Customer, Communities, Culture and Corporate RSS portfolio relating to support arrangements for a Technical Services contract (sections 5.1.iii & 5.13.ii)
 - iv. To amend the capital budget as shown in Appendices C (i) and C (ii) which allows for capital slippage of **£24.1m**, capital budget additions of **£15.4m**, capital budget reductions of **£15.3m** and advanced works of **£5.5m** (see section 7.2).

4. Note that a Capital Receipts Strategy is being developed to enable a broader use of capital receipts in-line with the flexibility currently permitted by the Ministry of Housing, Communities and Local Government; this strategy will be brought to Cabinet and then to Full Council for approval. If approved, the Council will then potentially be able to return £5m to the Reserve for Future Capital Funding (see section 2.1.i).
5. **Optimisation of Essex Housing – creation of Limited Liability Partnerships (LLP) (FP/692/05/20)**

Cabinet received a report seeking approval to establish a LLP Structure for part of Essex Housing as well as establishing new governance and operational processes.

The Leader responded to a question from Councillor Pond in respect of the loan arrangements for the LLP. The Cabinet Member for Economic Development also responded to questions from Councillors Pond, Henderson and Mackrory in relation to responsibility for planning applications, communication with Borough and District Councils, the involvement of the scrutiny function, rent levels and the accountability of the LLP.

Resolved:

1. Agree to:
 - the establishment of a limited liability partnership, Essex Housing Development LLP; and
 - delegate to the Leader, in consultation with the Cabinet Members for Economic Development and Finance, the Section 151 Officer and the Monitoring Officer authority to establish a further LLP to own, rent and manage housing.
2. Agree that ECC becomes a member and designated member of the LLPs outlined at 2.1, with a 99% interest.
3. Agree on behalf of the Council and as the 100% shareholder of Seax Trading Limited that Seax Trading Limited becomes a member and designated member of each LLP outlined at 2.1, with a 1% interest.
4. Agree that the management board of the LLPs outlined at 2.1 will be established as set out in 4.2.6 and 4.2.7 of the report.
5. Agree that ECC will enter into service level agreements with the LLPs set out in 2.1 for the provision of services by ECC to the LLP so that the LLP can purchase staff services in order to offer its services.
6. Agree that the Director, Performance, Investment and Delivery may:

- agree the terms of the constitution of each LLP which will be set out in the LLP Agreements between Essex County Council, Seax Trading Limited and each individual LLP; and
- adopt and implement each LLP's delivery plan

after consulting the Section 151 Officer and the Monitoring Officer.

7. Agree, on behalf of the Council, the Essex Housing Five Year Business Plan at Appendix A.
8. Agree the Essex Housing Annual Delivery Plan 2020/21 contained in the Confidential Appendix.

6. **Decisions taken by or in consultation with Cabinet Members (FP/704/05/20)**

The report of decisions taken by or in consultation with Cabinet Members since the last meeting of the Cabinet was noted. The report included details of decisions exempted from call in in response to the Covid-19 pandemic.

7. **Date of Next Meeting**

It was noted that the next meeting of the Cabinet would take place on Tuesday 15 September 2020 at 10.00am. It was expected that the meeting would be held online.

8. **Urgent Business**

There was no urgent business.

Exclusion of the Press and Public

Resolved:

That the press and public be excluded from the meeting during consideration of the remaining item of business on the grounds that it involves the likely disclosure of exempt information as specified in paragraph 3 of Schedule 12A of the Local Government Act 1972 – information relating to the financial or business affairs of any particular person).

9. **Optimisation of Essex Housing – creation of Limited Liability Partnerships (LLP) – Confidential Appendix (FP/692/05/20)**
(Press and public excluded)

The Cabinet considered the Confidential Appendix to report FP/692/05/20 which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 5 above refers).

10. **Urgent Exempt Business**

There was no urgent exempt business.

There being no further business, the meeting closed at 10.32am.

Forward Plan reference number: FP/775/07/20

Report title: Reopening of Framework for procurement of Individual Packages of Support for Children or Young Adults with Special Educational Needs or a Disability	
Report to: Cabinet	
Report author: Clare Kershaw - Director, Education	
Date: 15 September 2020	For: Decision
Enquiries to Ralph Holloway - Head of SEND Strategy and Innovation email ralph.holloway@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 This report seeks authority to draw down £13.2m from the high needs block of the Dedicated Schools Grant (DSG) and to reopen the Individual Packages of Educational Support (IPES) framework (the Framework) that was previously let by open procurement in 2018.

2. Recommendations

- 2.1 Approve the draw-down of an additional £13,200,000 from the high needs block within the Dedicated Schools Grant budget.
- 2.2 To reopen the Framework for individuals of packages of support to allow new providers to join and existing providers to refresh their existing pricing schedule and bid for additional lots that are currently in place.
- 2.3 To delegate authority to Cabinet Member for Skills and Education in consultation with to the Director for Education to award contracts to any additional providers who join the Framework following a successful procurement process.

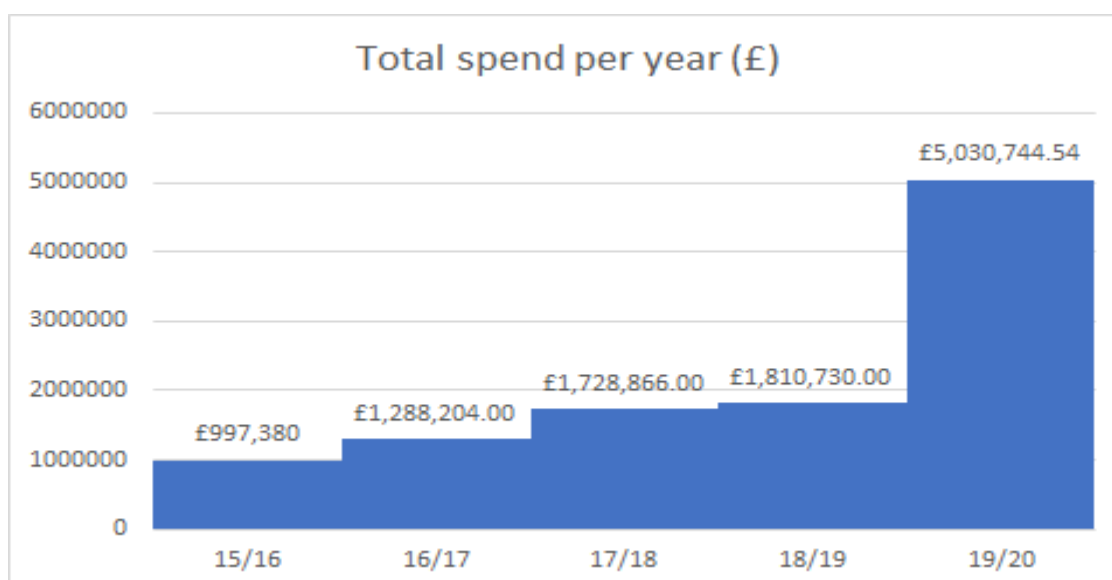
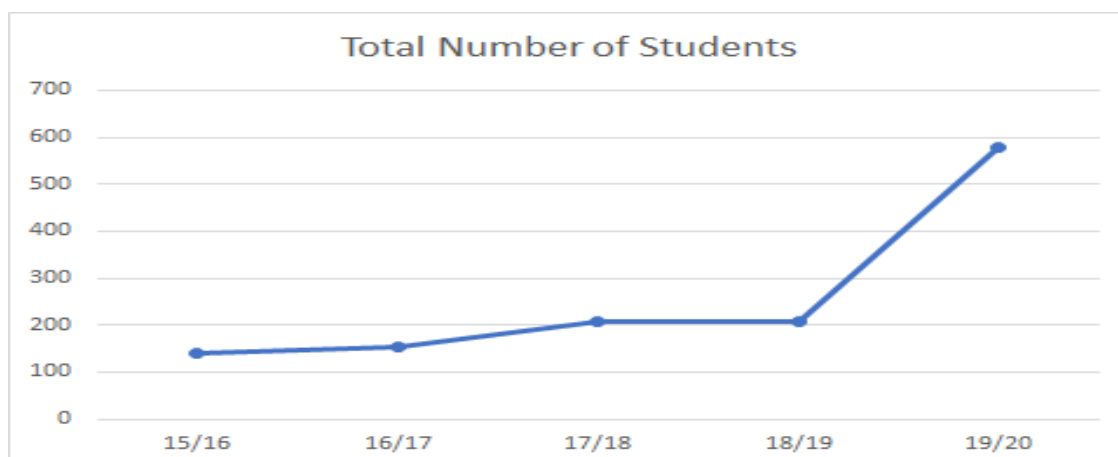
3. Summary of issue

The Current Framework

- 3.1 In May 2018, Cabinet approved the procurement of the Framework to meet Essex County Council's (ECC) statutory duty to provide an alternative education provision such as Tuition or Vocational Training for children and young people living in Essex who have been permanently excluded or who, due to illness or other reasons are unable to receive suitable education. The Framework has a four-year term and commenced in April 2019.
- 3.2 The Framework replaces previous 'spot purchase' arrangements and provides greater competition in the market, greater control of cost and allows for contract

and supplier management ensuring reporting mechanisms and clear pathways are available to support attendance, safeguarding and pupil progress through reports submitted as part of the quality assurance process monitored by the service and ECC's contract management team.

- 3.3 The Framework currently has 14 suppliers providing county wide coverage and is used exclusively by three teams in ECC's Education Directorate: Special Educational Needs and Disabilities (SEND), Education Access and Virtual School. The Framework agreement contains provision for other contracting bodies to source services through the Framework subject to entering into an access agreement with ECC, however to date, it has not been used by other contracting bodies and all of the call off's have been by ECC.
- 3.4 The Framework is split into 4 lots:
Lot 1- Tuition Services
Lot 2- Vocational Services
Lot 3- Virtual Learning Services
Lot 4- Early Intervention Re-Integration Services.
- 3.5 In 2108, the initial estimated value of the Framework for its term of 4 years was £6,800,000 based on services for approximately 700 pupils. In its first year (2019/20), the Framework has supported 577 pupils at a value of £5,030,477 for year one. This represents an increase of 180 % in the number of pupils requiring the provision of alternative education from 2018/2019. The table at paragraph 3.7 below shows the demand for services from the Framework.
- 3.6 This unexpected demand for services from the Framework has exceeded forecasts and based on current demand, the initial estimated value of the Framework, which was included in the original procurement activity and notices will be exhausted by December 2020, rather than March 2023. It is estimated that if demand for call off services from ECC continues, based on the current level of demand for alternative education provision, ECC's use of the Framework will be £13,200,000.00 for the remainder of the Framework term until it expires in 2023. This estimated increase does not take into account the potential impact of Covid19 on the number of pupils requiring the provision of alternative education or any requirements for services from other contracting authorities.
- 3.7 The tables below demonstrate the growth in the number of pupils accessing the alternative education services from 18/19 to 19/20 and the associated impact on the financial requirement on the Framework in its first year. It is anticipated that this level of need and demand for services from the Framework is likely to continue until ECC's SEN and PRU capital programmes delivers the necessary increased capacity in the Essex special schools and pupil referral units (PRUS). The need for an increase in capacity has led to a programme for delivery of four new special free schools for autism and SEMH (the two areas of need driving the greatest demand and capacity deficit) and the development of a PRU estate which is fit for purpose. ECC are in discussion with the Department for Education regarding the construction of these schools and the target date for delivery is 2023



- 3.8 Essex has seen a 62.9% increase in the numbers of pupils entering PRU's since 2018. This is more than double the increase across the Eastern Region and England and will be one of the key drivers for the project linked to students who are Not in full time Education (NIFTE) project outlined at 4.6.
- 3.9 Capacity in PRU's has also been affected since April 2019 by Aspire, the West Essex PRU has been unavailable for placements due to it being placed into Special Measures by Ofsted. This has reduced the capacity in the PRU's for 19/20 by 103 places.
- 3.10 ECC, and the Schools Forum through allocated funding from the Direct Schools Grant, are committed to undertaking building works at a value of £84,000,000 on an 'invest to save' basis to increase the capacity of Essex Special Schools, Pupil Referral Units and Resourced Provisions in mainstream schools, this is in addition to a £28,000,000 investment from the Education and Skills Funding Agency (ESFA) to provide four new Special Schools across Essex. In total this investment will provide Essex with 619 places for children, with SEND and those

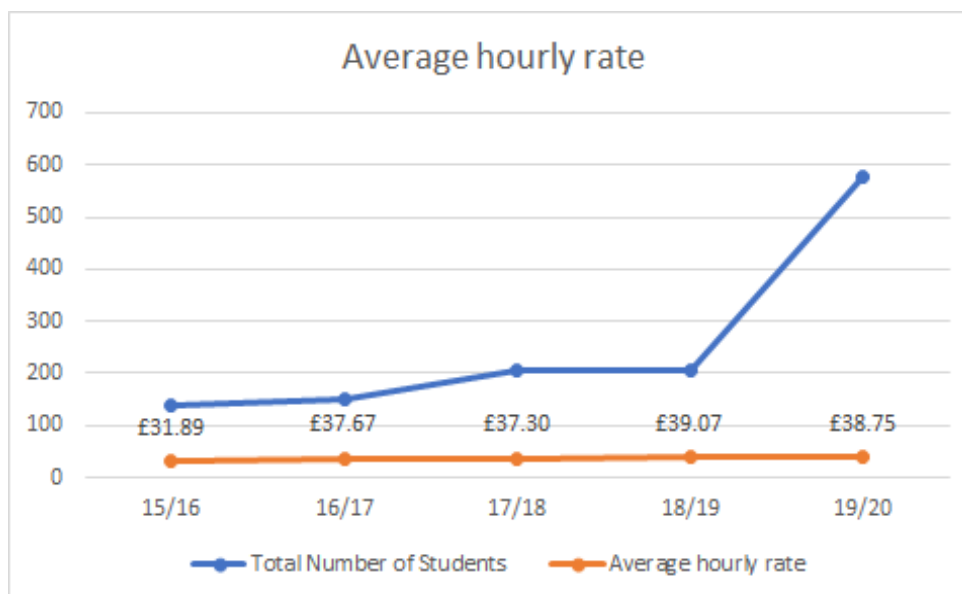
that are unable to attend school for whatever reason. This intensive programme of building and development is in progress and projected to be completed by 2023. It is expected that ECC's reliance on the Framework will reduce throughout this period, as more places become available.

3.11 The recommendations including the drawdown of £13,200,000 for IPES under the Framework will ensure that ECC can continue to meet the demand for alternative education provision until the new provision becomes available. The Framework will allow ECC to meet demand and enable ECC to continue to meet its statutory duties and to meet the following Strategic Priorities in line with the Organisation Strategy:

- Help people get the best start and age well
- Help create great places to grow up, live and work.
- Improve the Health of People in Essex
- Help people in Essex prosper by increasing their skills
- Help keep vulnerable children safer and enable them to fulfil their potential
- Improve the health of people in Essex
- Help to secure stronger, safer and more neighborly communities
- Develop the capability, performance and engagement of our young people

4. Re-opening the Framework

- 4.1 The Framework contains provision that ECC will re-open the Framework to new providers in year two for inclusion to years three and four ECC also has an overriding discretion to re-open the Framework to new providers where there is sufficient interest from new providers or there are sufficient grounds arising from a review of the Framework to merit re-opening.
- 4.2 There has been a steady growth in interest from the market to join the Framework and ECC's contracts management team are currently holding a waiting list of 27 providers.
- 4.3 It is anticipated that by increasing the number of providers on the Framework there will be a greater choice of available services and increased competition to further reduce the hourly rate which in turn will benefit the children and young people of Essex by delivering a greater variety of courses within Lot 2 for Vocational Services where choice is currently limited.
- 4.4 The chart below shows how the Framework has been successful in stabilising the hourly rate despite the number of students increasing. It is anticipated that the hourly rate will decrease further when the framework is re-opened due to increased number of suppliers and subsequent increase in competition.



- 4.5 Currently the Framework only has 2 providers in Lot 3 for Virtual services. It is anticipated that the number of providers will increase as a result of re-opening the framework, helping ECC to meet the new and unanticipated demand for these services due to Covid.
- 4.6 Re-opening the Framework in accordance with its terms, will allow ECC to increase the value of services that can be called off from the Framework. This will ensure that ECC can continue to source provision of the services required to meet its statutory duty until March 2023 whilst a re-evaluation of the alternative education provision takes place through the ECC Capital Programme and the NIFTE project, in turn, reducing the reliance on the IPES Framework. The NIFTE project is currently underway to understand, analyse and review the current system for the provision of alternative education in Essex. The NIFTE Project will help ECC understand why children are placed in alternative education provision and whether the provisions are fit for purpose and continue to meet needs in the future. The project is currently in development with a projected timescale for delivery in three years. As the NIFTE project, along with the SEN and PRU capital programme will be delivered incrementally, it is to be anticipated that demand would reduce during this timescale as individual projects are completed.
- 4.7 In view of the fact that the total spend under the Framework to date has been incurred solely by ECC, the projected value of the services to be delivered under the Framework for the remainder of the Framework term has been estimated on the current demand and spend by ECC.

5. Options

5.1 Option 1. Increase the budget of the existing framework without re-opening the framework

Benefits:

- ECC will be able to source provision until March 2023 to meet its statutory duty whilst the wider commissioning intentions for alternative education are re-evaluated in line with the Capital Programme and NIFTE Project.
- Avoids the need for a procurement, and the associated resourcing issues.

Risks:

- The value of the Framework cannot be increased without re-opening the Framework.
- ECC will not have the opportunity to add new providers to Framework, which will impact the ability to achieve increased competition in the market, a reduction in cost and a wider variety of Education options available to support our young people.
- ECC could be unable to meet continuing demand with the existing provider base.

5.2 Option 2. Re-open framework to increase value and add providers – Recommended Option.

Benefits:

- ECC will continue to meet its S19 statutory duty.
- ECC will be compliant with the Public Contract Regulations 2015 (the Regulations)
- ECC will be able to source provision until March 2023 to meet its statutory duty whilst the wider commissioning intentions for Education are re-evaluated in line with the Capital Programme and NIFTE project.
- ECC will have the opportunity to add new providers to Framework, which will result in increased competition in the market, a reduction in cost and a wider variety of Education options available to support our young people

Risks:

- Current providers on the Framework may review their pricing which may result in an increase.
- Resource implications for a Procurement on Education staff.
- Length of time taken for a procurement increases the pressure on the current allocated budget.

5.3 Option 3. Cease the framework and implement a different model.

Benefits

- No need to re-procure the Framework.

Risks

- Any new model will not be ready for implementation by December 2020 when the current budget is due to run out.
- Unable to make any placements with Alternative Education/Tuition Providers, without going back to Spot Purchasing and the associated risks.

6. Issues for consideration

6.1 Financial implications

6.1.1 The High Needs Block within the Dedicated Schools Grant funds Individual Packages of Educational Support.

6.1.2 The original funding available for the Framework was £1.7 million per year, however subsequently this has increased to £3.7 million in 2020/21, £7.8 million in 2021/22 and £8.2 million in 2022/23, so there are sufficient resources available to increase the value of the framework.

6.2 Legal implications

6.2.1 There is provision in the Framework agreement for ECC to re-open the Framework to new entrants in year 2 which is a general discretion to do so subject to the conditions being satisfied. ECC are able to meet both of these criteria for the reasons set out in this report.

6.2.2 ECC has a duty under section 19(1) of the Education Act 1996 (as amended) to provide alternative education provision for children of compulsory school age that do not have access to school provision due to permanent exclusion or ill health.

6.2.3 Alternative education provision services are considered to be Light Touch for the purposes of the Public Contracts Regulations 2015 ('the Regulations') and are therefore not subject to the full rigour of the Regulations. ECC is therefore not required to procure these services using one of the procedures defined in the Regulations, provided that the procedure adopted complies with the treaty principles of transparency, equal treatment and fairness.

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 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

Appendix A - Equality Impact Assessment – Reference EQIA232416896

9. List of Background papers

None

Forward Plan reference number: FP/688/04/20

Report title: Extension of Contracts for Local Bus Services	
Report to: Cabinet	
Report author: Andrew Cook, Director, Highways and Transportation	
Date: 15 September 2020	For: Decision
Enquiries to: Helen Morris, Head of Integrated Public Transport Unit email helen.morris@essex.gov.uk or Karen Saunders karen.saunders@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 This report relates to contracts for 80 local bus services which ECC subsidises. One of these contracts is due to expire in March 2021 with the remaining 79 contracts expiring in July 2021.
- 1.2 This report asks the Cabinet Member for a decision to extend these 80 local bus contracts at the current rate until July 2022.

2. Recommendations

- 2.1 Agree that, subject to agreement with the operator, the Council will extend the 80 contracts set out in Appendix A until July 2022 with the current operator at current prices, at an annual cost of £7,475,201.85.
- 2.2 Agree that, where extension of services cannot be agreed with an operator, to go out to the market to procure a contract for the services for the period to July 2022 on terms and conditions to be agreed by the Cabinet Member for Education and Skills

3. Summary of issue

- 3.1 ECC has 93 bus service contracts that are due to expire before 2022 and a review of the contract and a public consultation on the services was planned to take place in 2020 to inform future service provision. Unfortunately, due to the Coronavirus outbreak and resulting lockdown impacting upon passenger numbers on local bus services, this has not been possible. It is therefore proposed that ECC extend the bus service contracts in order for a meaningful public consultation to be carried out. All services proposed for extension are set out in Appendix A.
- 3.2 Whilst the bus service contract terms allow for such an extension at existing contractual rates, extension can only take place by mutual agreement. Where

possible, ECC will agree extensions to service provision and any contract extensions awarded will align contract length to July 2022 allowing ECC the necessary time to undertake a review and consultation exercise. We will procure replacement services on the same basis as the current services were procured. If necessary, replacement Services will be procured using the Proactis Purchasing System (PPS) which is an OJEU compliant procurement route.

- 3.3 During the next 12 months, ECC propose to commence a public consultation on the future of the bus services included in this paper. This consultation will explore the options for re-shaping the local bus network and investigate how bus services are run and commissioned and consider how ECC could devolve more of that activity to communities and their representatives. The consultation will also seek to identify the journeys that people feel are the most important to them. It is proposed to delegate to the Cabinet Member for Cabinet Member for Education and Skills to agree the scope of the consultation and to authorise that ECC can go out to public consultation.
- 3.4 ECC will also consider how to procure future services beyond 2022 as flexibly as possible to meet demand and to ensure that in the longer term ECC continues to achieve the value for money policy threshold of £5 per passenger journey. This includes seeking ways of operating services in different ways where appropriate. This might include demand responsive services or the use of accessible minibuses rather than full size traditional buses. The outcome of this work will be subject to further governance in due course. It should be noted that the current pandemic means that capacity on all buses is severely restricted and it is not currently possible to assess the cost per passenger journey in the way intended. It is therefore proposed to extend all services on current basis until July 2022.
- 3.5 It is necessary to undertake contract extensions or re-procurement as soon as possible in order to resolve services before the consultation is commenced. Where new providers are procured, they need to register new services with the Traffic Commissioner before they can commence.

4. Options

- 4.1 **Option 1 – Do Nothing** – all contracts would end as they reach the date of expiry on each of the existing contracts, (all listed in appendix A). This option would result in many communities having vastly reduced bus services to key services. **(Not recommended).**
- 4.1.2 **Benefits:** By not extending or re-procuring these contracts expenditure of £5,032,618 would not be incurred in 2021/22 (representing approximately 8 months of the annualised expenditure on 79 contracts and a full year saving on 1 contract). The annualised expenditure for these contracts in 2021/22 is £7,475,202.
- 4.1.3 **Potential Issues:**
- If these local bus services cease to operate in July 2021, communities will be left without services.

- In February it was agreed that ECC would seek to grow services – in particular those above the cost per passenger threshold to increase passenger transport use. Subsequently a Department for Transport (DfT) bid was secured:
 - To improve current local bus services
 - To restore lost bus routes where most needed
 - To support new services or extensions to services
- The funding awarded by DfT of £964,000 cannot be used for its intended purpose if the extensions are not agreed since the Council will not be operating local bus services.
- ECC have not consulted on any potential withdrawal of these services and therefore it does not meet the objectives of the current ECC Passenger Transport Strategy and there is a risk of legal challenge.

4.2 Option 2 – Extend all contracts listed in appendix A (or retender if extension cannot be agreed) – This approach would maintain services as they currently operate and ECC will tender and award any contracts where extension is declined by the current operators. **(Recommended)**

4.2.1 Benefits:

- Where an offer of contract extension is accepted by the operator, the service continues under the existing contracted terms and there is no exposure to price increases for the period of extension.
- Communities would retain access to all current services, maintaining existing links to key services at the times and locations they serve.
- These extensions will allow the team to review current services and identify those that could be provided in a different way. In addition, timetable requirements that were set in 2016 may not meet current passenger travel patterns, and a full 12 week public consultation would enable current demand to be identified.
- By reviewing services, it would allow opportunities to reduce future costs and use the DfT grant to grow bus use:
 - To improve current local bus services
 - To restore lost bus routes where most needed
 - To support new services or extensions to services

4.2.2 Potential Issue

- The contracts were last procured in 2016 and there is no allowance for inflationary uplifts within the existing contracts. Therefore, if demand has changed, some contracts may not reflect current market value and operators may decline to extend at current rates on that basis. This is thought to be unlikely and negotiation takes place to reduce this risk, however if ECC need to re-procure those contracts there may be an increase to current cost, creating a revenue pressure which cannot be managed within the existing budget.

Option 2 is the recommended approach as this allows time for ECC to design future service provision to reflect the weight of actual journeys undertaken on each route.

5. Other Implications

5.1 Financial implications

5.1.1. The existing budget provision included in the Medium Term Resource Strategy (MTRS) for local bus is set out in the table below:

Local Bus	2020/21 £m	2021/22 £m	2022/23 £m
Annual Contracted expenditure	9.794	9.194	8.194
Annual Non Contracted expenditure	0.077	0.077	0.077
Annual Income	-2.050	-1.294	-1.134
Controllable Net Budget	7.821	7.977	7.137

5.1.2 The total annual cost for the contracts listed in appendix A proposed for extension is £7,475,202 which is funded from part of the overall local bus budget in 2020/21.

5.1.3 Whilst the current cost of these contracts is contained within the 2020/21 budgetary envelope for expenditure, income from local bus is likely to be affected by the implications arising from Covid. Currently the decrease in fare revenue for supported services as a result of Covid is compensated for through the Local Authority Covid Bus Service Support Grant (CBSSG). This covered an initial period of 12 weeks from 17 March to 8 June 2020 and will partially offset some of the pressure arising. A further CBSSG Restart grant has been confirmed by the DFT, however there remains a risk that central Government funding will cease before passenger numbers have fully recovered on local bus routes creating a continued risk to revenue in 2020/21 and beyond. Any review of services will also need to consider the longer term impact of Covid on services and passenger numbers. This will be done as part of the review and consultation.

5.1.4 Extending contracts beyond their original term may further give rise to an unfunded revenue pressure should the contracts not be able to be extended at zero increase.

5.1.5 Additionally, where a procurement exercise becomes necessary should the operators choose to allow the existing contracts to expire, a revenue pressure may also arise if services are unable to be procured within existing budgetary limits. Should a cost pressure arise this will be expected to be contained by the service identifying appropriate mitigations.

- 5.1.6 The table below contains scenario analysis detailing the potential financial implications should the 80 contracts not be able to be extended or re-procured at a zero increase in cost:

	Total annualised contract cost	Total annualised cost pressure	Estimated pressure on MTRS in 2021/22
	£m	£m	£m
Zero contract cost increase	7.475	0	0
25% contracts re-tendered at 5% increase	7.569	0.093	0.062
50% contracts re-tendered at 5% increase	7.662	0.187	0.125
75% contracts re-tendered at 5% increase	7.756	0.280	0.187
All contracts re-tendered at 2.5% increase	7.662	0.187	0.125
All contracts re-tendered at 5% increase	7.849	0.374	0.249
All contracts re-tendered at 7.5% increase	8.036	0.561	0.374

- 5.1.7 There is the risk that contracts that are extended may not deliver best value for money for the Council in the short term if the cost exceeds £5 per passenger journey which represents the current policy threshold for intervention. However, an extension conversely allows for appropriate consultation and analysis to be undertaken ensuring that the value for money criteria that the Council must consider will be met beyond the initial contract extension term whilst providing continuity of the existing service to communities in the intervening period.
- 5.1.8 Additionally, extension allows for the opportunity for ECC to make effective use of the £964,000 DfT grant to:
- improve current local bus services
 - restore lost bus routes where most needed
 - support new services or extensions to services

5.2 Legal implications

- 5.2.1 ECC is under a statutory duty in accordance with the Transport Act 1985 to secure the provision of such passenger services as ECC considers it appropriate to meet any public transport requirements within its area which would not in its view be met otherwise.
- 5.2.2 There is a statutory duty for providers to register services with the Traffic Commissioner which takes 70 days. If this decision is not made at September Cabinet the delay will affect the consultation which could then affect the registration process which is set by the Traffic Commissioner and takes 70 days.

- 5.2.3 Existing contracts contain extension provisions. Where the providers choose not to extend the current contracts, ECC will undertake a procurement exercise in accordance with the provisions set out within the Public Contract Regulations 2015 and ECC's procurement policy and procedures.
- 5.2.4. ECC has not consulted on withdrawing these services, therefore extension is required to avoid the services ceasing and the risk of legal challenge if ECC allowed them to cease operating.

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.

List of appendices

Appendix A - List of contracts expiring in 2021
Appendix B- EQIA

	Service number	Contract Type	Length of contract awarded	Contract Start Date	Contract expiry date	Days of operation	Supporte d Journeys	Origin	Destination	Operator	Annualised nett contract cost to ECC
VL1106	14	Gross	4 year plus 4 months	10/04/2016	24/07/2021	Monday to Friday	Sch	Wickford	The Wick	NIBS Buses Ltd	£20,467.46
VL1108	21	Nett	4 year plus 4 months	10/04/2016	24/07/2021	Saturday		North Benfleet	Basildon	First Essex Ltd	£7,107.36
VL1109	21	Nett	4 year	10/04/2016	24/07/2021	Monday to Friday		North Benfleet	Basildon	NIBS Buses Ltd	£51,106.00
ZL1113	256	Gross	1 year	26/07/2020	24/07/2021	Tuesday, Thursday, Saturday		Little Burstead	Basildon	NIBS Buses Ltd	£39,341.71
VL1208	16	Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Wethersfield	Chelmsford	Stephensons of Essex Ltd	£123,830.00
VL1216	30	Nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Beckers Green	Marks Farm	Stephensons of Essex Ltd	£35,852.75
VL1219	SB21	DM Nett	4 year	10/04/2016	24/07/2021	Monday		Fuller Street	Braintree	Ugobus	£2,818.56
VL1225	SB28	DM Nett	4 year	10/04/2016	24/07/2021	Wednesday		Stisted	Braintree Freeport	Braintree Community Transport	£1,393.60
VL1226	DaRT 2	Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Braintree / Uttlesford	Braintree / Uttlesford	Arrow Taxis Essex Ltd	£154,330.00
VL1227	DaRT 3	Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Braintree	Braintree	Arrow Taxis Essex Ltd	£111,630.00
VL1228	90	DM Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Maldon	Witham	Stephensons of Essex Ltd	£58,499.00
VL1230	21	DM Nett	3 year	01/08/2016	24/07/2021	Monday to Saturday		Bocking	Gt Notley	Stephensons of Essex Ltd	£23,918.10
VL1231	40	DM Nett	4 year	01/08/2016	24/07/2021	Monday, Wednesday, Saturday		Witham, Ebenezer Way	Witham, Town service	Ugobus	£18,647.36
VL1404	21C	Nett	4 year	10/04/2016	24/07/2021	Monday to Friday		Canvey	Hadleigh	NIBS Buses Ltd	£34,914.00
VL1518	17/18	DM Nett	4 year	10/04/2016	24/07/2021	Tuesday, Thursday, Friday, Saturday		Great Dunmow	Chelmsford	JW Lodges & Sons	£33,948.00
VL1607	16A	Nett	4 year	10/04/2016	24/07/2021	Schooldays		Canwick Grove	St Helena School	Hedinghams & District Omnibus Ltd	£26,421.40
VL1608	17	Nett	4 year	10/04/2016	24/07/2021	Schooldays		West Bergholt	Stanway	First Essex Ltd	£49,097.90
VL1610	50/50A/50B/69/69A/79/84B	Gross	4 year	10/04/2016	24/07/2021	Monday to Saturday		Colchester	Tollesbury / East Mersea / Layer Breto	Hedinghams & District Omnibus Ltd	£84,123.69
VL1618	80/80A/81/81A	Gross	4 yea	10/04/2016	24/07/2021	Monday to Saturday		Colchester	Boxted / Dedham	Panther Travel	£226,238.22
VL1706	804	DM Nett	4 year	10/04/2016	24/07/2021	Schooldays		Debden	Chigwell	London General Transport Services Ltd t/a	£22,800.00
VL1812	505	DM Gross	4 year	10/04/2016	24/07/2021	Saturday		Harlow	Chingford	Galleon Travel 2009 Ltd	£7,482.97
VL2115	115	DM Nett	6 month & extension to Dec 201	26/07/2019	24/07/2021	Schooldays		Clacton	Tendring Tech	Ugobus	£19,680.20
VL2004	63	Gross	4 year	10/04/2016	24/07/2021	Wednesday & Friday		Rayleigh	Great Wakering / Landwick	NIBS Buses Ltd	£33,607.45
VL2005	7/8	DM Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Golden Cross / Rayleigh	Hockley	Arriva Kent & Thameside Ltd	£15,997.25
VL2007	60/60A	Nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Southend	Paglesham	Stephensons of Essex Ltd	£71,864.10
VL2106	77/77A	Gross	4 year	10/04/2016	24/07/2021	Monday to Friday		St Osyth Beach	Tufnell Way	Arriva Kent & Thameside Ltd	£102,854.26
VL2109	118	Gross	4 year	10/04/2016	24/07/2021	Schooldays		Parkeston	Ramsey	Panther Travel	£26,452.92
VL2111	9/101/105/107/115	Gross	4 year	10/04/2016	24/07/2021	Monday to Saturday		Walton / Weeley/Point Clear	Gt Holland / Colchester / Thorpe le So	Stephensons of Essex Ltd	£254,960.07
VL2201	5	Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Bishops Stortford	Stansted Airport	Stephensons of Essex Ltd	£237,741.40
VL2202	6	Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Stansted Airport	Saffron Walden	Stephensons of Essex Ltd	£237,741.40
VL2212	301	Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Bishops Stortford	Saffron Walden	Stephensons of Essex Ltd	£271,755.00
VL2215	313/313A	Gross	3 year + 1 year	10/04/2016	24/07/2021	Monday to Saturday		Great Dunmow	Saffron Walden	Stephensons of Essex Ltd	£95,613.38
VL2227	DaRT 1	Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Uttlesford	Uttlesford	Arrow Taxis Essex Ltd	£86,315.00
VL2228	Citi 7	DM Nett	4 year	10/04/2016	24/07/2021	Monday to Saturday		Cambridge	Saffron Wallden	Stagecoach Cambus	£25,016.10
XL1102	552	Nett	3 year	27/08/2017	24/07/2021	Monday to Friday		Ramsden Heath	Billericay Station	NIBS Buses Ltd	£44,022.00
XL1103	104/106	Nett	2 1/2 year	01/01/2018	24/07/2021	Monday to Friday		Langdon Hills	Basildon	NIBS Buses Ltd	£61,479.00
XL1106	1A	Gross	3 year	27/08/2017	24/07/2021	Saturday		Basildon	Pitsea	NIBS Buses Ltd	£9,927.31
XL1107	12	Nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Wickford	Billericay	Stephensons of Essex Ltd	£76,930.15
XL1210	DaRT3 (F315)	nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Sudbury	Halstead	Arrow Taxis Essex Ltd	£150,975.00
XL1301	565	nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Grays	Brentwood	First Essex Ltd	£117,110.85
ZL1315	61	gross	1 year	30/08/2020	24/07/2021	Monday to Saturday		Blackmore/Doddinghurst	Brentwood	Vectare	£57,153.29
XL1314	71/72	nett	3 year	27/12/2017	24/07/2021	Monday to Saturday		Stondon Massey	Warley	Stephensons of Essex Ltd	£72,895.00
XL1501	32	nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Chelmsford	Ongar	First Essex Ltd	£61,338.55
XL1502	10	Nett	2 1/2 year	01/01/2018	24/07/2021	Monday to Friday		Temple Grove	Pleshey	Arrow Taxis Essex Ltd	£49,335.00
XL1506		3	Nett	2.5 years	22/01/2018	24/07/2021		Monday to Saturday	Southend	Chelmsford	Essex and Suffolk DaRT
ZL1710	211/212 (Drt)	Gross	1 year	26/07/2020	24/07/2021	Monday to Saturday		Waltham Cross	Breach Barns/Roundhills	Epping Forest CT	£44,835.00
ZL1714	13	Gross	1 year	30/08/2020	24/07/2021	Monday to Saturday		Waltham Cross Bus Station	St Margaret's Hospital Epping	Vectare	£176,900.00
XL1741	418	DM Nett	2 1/2 years	01/01/2018	24/07/2021	Monday to Saturday		Loughton	Harlow	Galleon Travel 2009 Ltd	£44,225.00
XL1801	381	DM Nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Toot Hill	Harlow	Ugobus	£89,825.55
XL1805	14	Gross	3 year	27/08/2017	24/07/2021	Monday to Saturday		Harlow	Pinnacles	Galleon Travel 2009 Ltd	£112,217.16
XL1808	5	nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Sumners Farm	Harlow Bus Station	Galleon Travel 2009 Ltd	£70,150.00
XL1904	99a	Nett	3 year	27/08/2017	24/07/2021	Monday to Friday		Chelmsford	Woodham Walter	Arrow Taxis Essex Ltd	£34,926.65
XL1911	D1/D2	Gross	3 year	27/08/2017	24/07/2021	Monday to Saturday		Maldon	Bradwell	Hedinghams & District Omnibus Ltd	£190,849.11
XL1918	DaRT 5	Nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Maldon	Stow Maries/Nth Fambridge/Althorne	Arrow Taxis Essex Ltd	£71,675.00
XL1920	DaRT 4	nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		St Lawrence	Burnham on Crouch	Essex and Suffolk DaRT	£65,270.00
XL2003	14	nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Southend	Shoeburyness/Barling	Stephensons of Essex Ltd	£98,210.00
XL2101	2	gross	3 year	27/08/2017	24/07/2021	Monday to Saturday		Harwich	Harwich	Panther Travel	£45,498.18
XL2210	34	Gross	3 year	27/08/2017	24/07/2021	Tuesday and Thursday only		Saffron Walden	Saffron Walden	Stephensons of Essex Ltd	£11,841.00
XL2211	306	Gross	3 year	27/08/2017	24/07/2021	Schooldays		Wicken Bonhunt	Bishops Stortford	Galleon Travel 2009 Ltd	£46,552.46
XL2212	7/7A	Gross	3 year	27/08/2017	24/07/2021	Monday to Saturday		Bishops Stortford	Stansted Airport	Galleon Travel 2009 Ltd	£286,251.72
ZL2216	59/60	Nett	3 year	27/08/2017	24/07/2021	Monday to Saturday		Haverhill	Saffron Walden/Newport	Stephensons of Essex Ltd	£182,426.60
YL1105	10	Nett	4 year	01/04/2018	24/07/2021	Monday to Saturday		Shotgate / Wickford	Basildon	First Essex Ltd	£111,619.71
YL1111	94/A/B	Nett	4 year	01/04/2018	24/07/2021	Monday to Saturday		South Woodham	Basildon	First Essex Ltd	£268,099.91
YL1502	13/13a/14	Nett	4 year	01/04/2018	24/07/2021	Monday to Saturday		Chelmsford	Wickford	First Essex Ltd	£217,141.70
YL1511	47/73	Nett	4 year	01/04/2018	24/07/2021	Monday to Saturday		Chelmsford	Springfield-Broomfield/Maldon	First Essex Ltd	£258,649.15
YL1605	15/82/A/B/83/A/B	Nett	4 year	18/02/2018	24/07/2021	Monday to Saturday		Colchester/Lexden	Marks Tey/Colne Engaine/Bures	Hedinghams & District Omnibus Ltd	£244,677.10
YL1620	174/175	Nett	4 year	01/04/2018	24/07/2021	Monday to Saturday		Colchester	Fingringhoe	First Essex Ltd	£82,981.35
YL1704	46	Nett	3 year	01/04/2018	24/07/2021	Monday to Saturday		Chelmsford / Epping	Ongar	First Essex Ltd	£100,351.10
ZL1725	SB10/11/13 (Drt)	Gross	1 year	26/07/2020	24/07/2021	Monday & Thursday		Moreton/Matching Green/Stanford Rivers	Epping	Epping Forest CT	£13,413.00
ZL1817	SB12 (Drt)	Gross	1 year	26/07/2020	24/07/2021	Wednesday & Friday		Toot Hill	Harlow	epping Forest CT	£2,575.00
YL0033	21	DM Nett	7 year	17/06/2019	24/07/2021	Saturday		Ongar	Brentwood	NIBS Buses Ltd	£5,200.00
YL1308	269	Nett	3 year	17/06/2019	24/07/2021	Monday to Saturday		Brentwood	Grays	NIBS Buses Ltd	£94,055.92
ZL1907	91/92/ 95/95A	Nett	2 year	01/09/2019	24/07/2021	Monday to Saturday		Tollesbury / Maldon	Witham / Tollesbury / Colchester	Hedinghams & District Omnibus Ltd	£186,894.85
ZL1787	87	Nett	6 months	29/03/2020	28/03/2021	Monday to Saturday		Harlow	Loughton	Arriva Kent & Thameside Ltd	£147,449.20
ZL1206	9/9A	Nett	4 year	01/10/2019	24/07/2021	Monday to Friday		Great Saling/Great Bardfield	Great Notley	Stephensons of Essex Ltd	£173,411.26
ZL1604	4	Gross	1 year	26/07/2020	24/07/2021	Monday to Friday		Hythe Tesco	Stanway Sainsburys	Ipswich Buses Limited	£79,656.90
ZL1605	11	Gross	1 year	26/07/2020	24/07/2021	Monday to Friday		Highwoods	North Station	Ipswich Buses Limited	£92,838.81
ZL2101	2/2a	Gross	1 year	26/07/2020	24/07/2021	Monday to Saturday		Clacton	Mistley	Ipswich Buses Limited	£140,232.90
ZL1205	345	Gross	1 year	26/07/2020	24/07/2021	Wednesday		Fuller Street	Braintree	Hedinghams & District Omnibus Ltd	£8,216.00
ZL1609	19/63/63A	Nett	1 year	26/07/2020	24/07/2021	Monday to Saturday		Colchester Cowdray Centre/Rowhedge	William Harris Way/Monkwick School	Hedinghams & District Omnibus Ltd	£149,681.80
Total net annual cost to ECC											£7,475,201.85

Forward Plan reference number: FP/684/04/20

Report title: Procurement of Programme Management for property related Capital Works	
Report to: Cabinet	
Report author: Paul Crick, Director Performance, Investment & Delivery	
Date: 15 September 2020	For: Decision
Enquiries to: Ben Finlayson, Head of Infrastructure Delivery (ben.finlayson@essex.gov.uk)	
County Divisions affected: All Essex	

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

- 1.1 ECC has a contract with Mitie Ltd (Mitie) under which Facilities Management and Property Management services are provided (the Contract). Part way through the contract, we decided to buy additional services from Mitie relating to the provision of a Programme Management Office (PMO) to manage capital works to property. The agreement relating to the provision of these services expires on 30 September 2020.
- 1.2 In 2018 all other Mitie services were extended until 30 September 2026. This report asks Cabinet that Mitie Limited should provide the Programme Management Office until 30 September 2026.
- 1.3 This report is a follow-on paper from the previous extension report that Cabinet approved in December 2018 in relation to the extension of the overarching main facilities / property management contract with Mitie.

2. Recommendations

- 2.1. Agree to extend PMO element of the Mitie Contract for PMO services from 1 October 2020 until 30 September 2026.
- 2.2. Agree to extend the current fee agreement with Mitie Limited for PMO services from 1 October 2020 until 31 March 2021 on the current rates.
- 2.3. Agree to enter into a new fee agreement with Mitie Limited for PMO services commencing 1 April 2021 until 30 September 2026 on the revised rates set out in the confidential appendix.

3. Summary of issue

- 3.1. ECC property and facilities management services (including PMO) are provided by Mitie Ltd. This includes Hard Facilities Management (which relates to the physical fabric of buildings such as heating, lighting and building maintenance) and Soft Facilities Management (for example cleaning, security and waste management).
- 3.2. Following a decision taken by Cabinet in 2018, the main contract was extended in 2018 to run until 2026. This extension did not include the PMO service. This was because, at the time of the 2018 cabinet decision, it was agreed that further work and investigation would be undertaken at ECC regarding the future provision of the PMO services. This work has now been carried out and is set out below in this report.

PMO services

- 3.3. The PMO provides project and asset management services to deliver a range of ECC projects. It provides two distinct functions, programme management, which includes the oversight of the capital maintenance requirements and the coordination of works and programmes and project delivery which includes the project management of the specific projects that are delivered through the PMO. Its main deliverables include
 - Programme planning and strategy
 - Asset Management/lifecycle planning
 - Supply Chain Management
 - Works Programme Management
 - Cost Management & Reporting
 - Audit & Benchmarking
- 3.4. The PMO provides a range of services to support at ECC in capital Maintenance and project delivery the following areas.
- 3.5. PMO works are commissioned periodically by ECC by issuing a Fee Agreement in accordance with the terms of the Mitie FM contract. The Current Fee Agreement for PMO services is due to expire on 30th September 2020 in order to continue with the PMO services, at the current rate, ECC is required to give notice to Mitie Limited before 30th September 2020- If the fee agreement is not extended, it will end on the same date.
- 3.6. There is a significant volume of work that is required to be delivered across the ECC core and schools estate, and a PMO service has assisted with delivery of works for programmed each year. The table below sets out the value of PMO works undertaken for the financial year 2019/20 and this represents as typical amount of work undertaken by the PMO. Covid-19 impacted delivery in the final month of the 2019/20 spend which resulted in a small underspend against budget as projects were shut down for a period of time.

Core Estate	£4.7m
Schools Estate	£5.8m
Direct Delivery	£2.6m
Insurance	£0.7m
Total	£13.8m

Review of PMO services

3.7. At the point of agreeing to extend the main FM contract in December 2018, it was determined that more work was required to established whether the PMO element was delivering value for money. Since this time, ECC officers have carried out a comprehensive review of the existing PMO service including reviewing business requirements, benchmarking costs, obtaining stakeholder feedback, undertaking market analysis and audit. A review of the fee percentage has been carried out with Mitie as part of this extension process and significant reduction achieved (also applicable to Insurance projects going forward), further details are set out in the confidential appendix. Key findings of the review are as follows:

- ECC is Mitie's 3rd largest Public Sector and the largest Local Authority customer.
 - Benchmarking against other existing Framework Agreements was difficult due to not being able to compare like for like in terms of the services provided within the PMO. When comparing to one other framework agreement, the existing rates provided were favourable even before further reductions within the updated proposal (Option 1C).
 - A follow-on audit review of the procurement processes used within the PMO was carried out as part of this work. In comparison to the previous review in 2018, there has been an improvement across a number of areas previously identified. A number of recommendations have been identified which will be progressed with Mitie as part of the recommended option.
 - Extensive work has been carried out with Mitie to develop their own proposals and negotiate an updated attractive fee agreement (Options 1B and 1C below).
 - Survey was carried out to gather stakeholder feedback regarding the existing PMO service offer, overall the outcome was that there were no areas that needed to be materially changed. Other areas identified as part of the feedback were already being addressed by putting in place better working practices.
- 3.8. Analysis was also undertaken following the review to identify the options that are available to deliver a robust PMO function which has included involvement from ECC colleagues across a number of teams at ECC such as Infrastructure Delivery and Facilities Management, Finance, Procurement, and Service Areas. The timescales for this have unfortunately been delayed due to Covid-19 and the

support that was required in the Facilities Management area where staff have been required to divert focus towards other activities.

- 3.9. Three main options were identified under by the analysis and review. These are detailed in the options section of this report. The recommended option is option 1C. It is proposed that ECC extend the Mitie contract for PMO Services until 2026, extend the current Fee Agreement until 31 March 2021 on its current rates and then issue a Fee Agreement to Mitie to provide PMO services until 2026 on revised and improved rates.

Review of PMO Rates

- 3.10. A review of the fee percentage was carried out with Mitie and significant reduction achieved (also applicable to Insurance projects going forward), further details set out in the confidential appendix.
- 3.11. Currently, the costs to ECC of the existing PMO function (overall programme management support) are based upon an annual fixed fee for the programme as a whole which is paid in monthly instalments. This ensures the delivery of all the programme management, budget and strategic reporting for the capital maintenance programmes. The fixed fee also includes the provision of staffing and a team that are dedicated to the ECC account and embedded within the ECC offices.
- 3.12. A percentage fee is then applied to each individual ECC project delivered through the PMO. The percentage fee is consistent across all works (and all project values) with the exception of Insurance works that currently have a different (higher) rate. Ad-hoc/direct delivery works are typically delivered at the standard percentage fee unless a different rate has been negotiated due to the nature of the work required.
- 3.13. At the time of the 2018 Cabinet paper it was acknowledged that more work was required to establish whether the existing PMO service was delivering value of money. Since 2018 and as part of analysis and review undertaken to inform future PMO services, the rates for PMO services with Mitie were reviewed on an open book basis with a view to achieving savings. This exercise led to an immediate reduction that is already in place and a further proposed significant reduction in rates and the fixed fee payable for PMO services if Option 1C is selected. Details of the review, the revised and improved rates and proposed new fee arrangements are detailed in the confidential appendix.
- 3.14. The review and resulting significant reduction in rates, coupled with the benchmarking market comparison work undertaken and evidence of improved delivery performance over the life of the PMO contract demonstrates that good value is demonstrated by the recommended option.

Future PMO services

- 3.15. It is proposed that the existing Fee Agreement that expires on 30 September 2020 is extended until 31 March 2021.

- 3.16. From April 2021, a new Fee Agreement will be issued to Mitie requesting PMO services until 30 September 2026 on a new, significantly improved and revised rate and service offering. This revised rate and offering is further detailed in the confidential appendix to this report.
- 3.17. This arrangement will align with the facilities management/property management arrangements in the Mitie FM contract. All projects for 2020/21 within the core Capital Maintenance Programmes have already been commissioned under the existing fee agreement, however any additional works identified will have the new fee agreement rates applied.
- 3.18. The proposals will deliver significant financial savings as are detailed in paragraph 5.1 below and ECC and Mitie have committed also to working together to deliver additional savings through improvements to ways of working and supply chain development. Further work is being undertaken to consider improvements including using schedule of rates for time efficiencies, batching projects, consideration of moving to a traditional contracting approach with design separate are all being considered and a further report will follow detailing the outcome of this work.
- 3.19. There have been no significant performance concerns with the delivery of the PMO by Mitie over the last year and feedback has been good. Delivery targets have been achieved on the core and schools estate programmes. Mitie have worked closely with ECC over the last 6 months to ensure that effective processes are in place, especially around the delivery of ad-hoc projects, which has significantly improved stakeholder engagement and communication.
- 3.20. There would be significant issues in having a separate third-party supplier providing this PMO work. A large part of the work undertaken by the PMO is lifecycle replacement of ECC assets. These assets are maintained by Mitie under the main FM contract. Having two separate contractors would create significant interface risks that would need to be managed by ECC. Under current arrangements Mitie are responsible for both elements and as such are accountable for any issues. If two parties were involved an exercise of apportioning responsibility should any issue arise would need to take place and be managed by ECC and this can be very challenging to determine for some projects.
- 3.21. With the duration of the extension it is possible that Local Government Reform may affect this contract. In consideration of this there are options around break clauses with further details found in the Confidential Appendix.

4. Options

- 4.1. There are 3 primary options to consider with the first option having three sub-options as set out below. Financial analysis of each of the options is included in the Confidential Appendix:

4.2 Option 1a – Extend the existing PMO arrangement on an annual basis with Mitie on the same terms as currently in-use (Do Nothing)

Extend the PMO fee agreement on the same basis as currently in place and continue with the same rates and service offering which would be reviewed on an annual basis.

- Enables the continuation of the PMO services by Mitie without any stoppage or interruption in service provision and project involvement.
- Ensures current knowledge of the estate and projects is retained due to no change in provider but means that no efficiencies or improvements in the process could be implemented into the service offering.
- Annual review requires internal and external resources to be employed each year.
- Mitie and the supply chain are not provided with any certainty to work with ECC to encourage improvement of the service offering.

4.3 Option 1b – Extend the PMO on an improved fee agreement/service offer with Mitie for 1 year.

Extend the PMO service offer, with Mitie for 1 year (September 2020 – September 2021) and enter into a new fee agreement.

- As with option 1a, this would provide continuity of supply and retention of knowledge of the estate and ECC projects.
- The 1-year extension proposal from Mitie would see a reduction in the annual fixed fee, however, the project percentage fee that is applied on each project would remain the same as the current agreement, therefore achieving limited savings overall.
- By entering into a further 1-year agreement for the PMO function, it would mean that another review would need to be carried out in 2021 and each year following to determine the approach to be taken. This would involve significant resource to carry out and complete each year.

4.4 Option 1c – Extend the PMO fee agreement until 31 March 2021 and enter into a new Fee Agreement with Mitie from April 2021 until September 2026 (Preferred Option)

Extend the PMO service offer, with Mitie for an initial 6 months (September 2020 – April 2021) on the existing Fee Agreement/rates and then from April 2021 extend until September 2026 based upon a new fee agreement and rates.

- Provides continuity of supply and retention of knowledge of the estate and ECC projects.
- The 5-year proposed extension would see a reduction in the annual fixed fee, a significant reduction to the project percentage fee and also a rationalisation of the insurance works fees to create a fixed rate across the

contract – leading to significant savings on insurance fees as set out in the Confidential Appendix.

- Working in partnership and focussing on continuous improvement will enable additional savings to be achieved through the supply chain in addition to the direct costs paid to Mitie.
- This option provides certainty of work over the next 5 years with the Core and Schools projects.
- Lowest cost (highest savings) of the Options as detailed in paragraph 5.1 below and the Confidential Appendix.

4.5 Option 2 – In-house approach to the provision of the PMO services

This option would move all services that are currently being provided by Mitie as part of the PMO in-house to be provided instead by the ECC Infrastructure Delivery and Facilities Management (IDFM) Team.

- ECC would be required to recruit and retain appropriately qualified Project Managers, Quantity Surveyors and Engineers. There are already some specialists in the IDFM Team however recruitment is challenging. Management of fluctuations in work would be at a cost to ECC. There is not currently sufficient resource at ECC and this would require recruitment or to secure alternative third party support.
- TUPE would be likely apply to staff employed within the current PMO, as a result, immediate savings through reduced salary costs would not be achieved.
- Mitie currently undertake the Principal Designer and Principal Contractor role under the Construction Design and Management regulations on all projects they deliver. If ECC were to take this on it would transfer significant risk to the Authority. Mitie currently pick up the cost risk of design errors and issues. Under this option this would instead be borne by ECC or paid for with another contractor.

4.6 Option 3 – Procure a new contractor for the provision of the PMO service

- ECC would need to manage interface between Mitie, ECC and a new contractor. It should be noted that this is needed every time that there is a change of contractor.
- A new supplier which would need to be appointed following a full procurement process or use available existing framework agreements.
- The removal of the PMO from the overall Mitie contract would significantly impact the total contract value to Mitie, reducing it to a level where it would no longer be classed as a Strategic Partner contract under Mitie's definitions. Strategic Partner Contracts receive the added benefits of a Strategic Account Director, greater focus from the Mitie Managing Director Team. ECC has received significant added value as a result of being a Strategic Partner. An example of this is the level of social value, which is in excess of contractual requirements and has recently seen the ECC/Mitie partnership awarded the RICS Social Impact award for the East of England.

- There could be an impact on knowledge transfer and continuity if there was a provider change.
- Significant interface issues would occur and interface risk that would sit with ECC to manage. There is extensive overlap between the Facilities Maintenance services and PMO, although this is a risk which was envisaged when the contract was originally entered into.

5. Issues for consideration

5.1. Financial implications

5.1.1 Further detail is to be found within the Confidential Financial Appendix.

5.1.2 Reductions to capital expenditure and Insurance costs arising from the Preferred Option (1c) are estimated at £329,000 per annum and it is proposed that these are retained and reinvested within the capital programme in view of specific funding streams and asset condition backlogs. Over the life of the contract extension the reduction to capital expenditure is estimated to be £1.810m on the assumption of a continuation of current budget levels.

5.1.3 The costs arising from this proposed contract extension are a capital cost to ECC and are already allowed for within ECC's future Capital Programme, and the associated revenue cost of borrowing are provided for within the MTRS and as such there are no direct budgetary implications of this decision.

5.1.4 Since the Schools element is funded by grant and the Insurance element through the Insurance reserve then it is assumed that those expenditure reductions will need to be reinvested, in turn delivering greater VFM. However alternatively Members could decide to realise the ECC core estate capital reductions of £120,000 per annum in turn which would equate to a revenue saving of £41,000 per annum from reduced borrowing costs.

5.1.5 The negotiated proposal within the stated Preferred Option (Option 1c) represents significant Capital and Insurance cost reductions to ECC.

5.1.6 The cost reductions arise both from a reduction in the fixed fee component and a reduction in the fee chargeable to each project.

5.1.7 There exists a backlog in Capitalised Maintenance Plans and a deficit in Building condition on both the core and schools estates. It is assumed that within this context and because of specific funding streams that the capital expenditure that would otherwise have been incurred will be retained within the allocated budgets and recycled to deliver further works, although ongoing monitoring of estate condition and works backlogs will be undertaken to confirm whether current budget levels should continue to be retained. Thus currently it is assumed that whilst more value will be achieved from existing budgets there would not be cashable savings.

5.1.8 The budget levels are determined for these Capitalised Maintenance programmes each year and the totals of £5m for Core Estate and £6.6m for

Schools are as reflected in the Published Capital Programme for 2020/21 and future years, noting that for 2021/22 onwards they are indicative only. Should the values allocated in the budget change from £5m and £6.6m then it is the budgeted values that would be delivered through the PMO. For Insurance clearly costs are reactive, and cost reductions have been modelled on recent historical averaging, noting that there can be significant variation year on year.

5.2. Legal implications

- 5.2.1. ECC has a duty to secure best value in the delivery of its services. The duty is 'to make arrangements to secure continuous improvement in the way functions are exercised, having regard to a combination of economy, efficiency and effectiveness.'
- 5.2.2. ECC is a Contracting Authority for the purposes of the Public Contracts Regulations 2015 (PCR 2015). The extension of the contract will require a contract variation.
- 5.2.3. Regulation 72 (1)(e) allows a variation to a contract in its term when the modifications, irrespective of value are not substantial. It is likely that the variation will not be viewed as substantial particularly given that they do not affect the economic balance of the contract in favour of the Contractor (the variation relates to a reduction in price rather than an increase) and the variation does not extend the scope of the contract considerably (it remains broadly similar to the original procurement).

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.

7. List of appendices

Appendix 1: Confidential Appendix

Appendix 2: Equality Impact Assessment

8. List of Background papers

None

The Forward Plan reference number: FP/709/05/20

Report title: Council's Corporate IT Systems Programme - exit and implementation	
Report to: Cabinet	
Report author: Nicole Wood – Executive Director, Finance and Technology	
Date: 15 September 2020	For: Decision
Enquiries to: Nicole Wood, Executive Director, Finance and Technology, Nicole.Wood@essex.gov.uk	
County Divisions affected: All Essex	

Confidential Appendix exemption

This report includes a Confidential Appendix which is exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

- 1.1 To seek funding for the ongoing programme costs to implement the first phase of Essex County Council's (ECC) new Oracle Fusion Cloud system which will be the IT system used as ECC's main financial and employee record.

2. Recommendations

- 2.1 To approve the drawdown from the Technology Solutions Reserve of £7.918m to fund the outstanding programme resource costs to implement the first phase of Oracle Fusion Cloud (Tranche 1) and the exit from the Fujitsu contract, to be funded from reserves as follows:
 - £533,000 in 2020/21
 - £7.385m in 2021/22
- 2.2 Note that following planned due diligence, the full life estimated costs of the programme have increased by £450,000 to £13.59m including contingency of £500,000. The contingency is to be ringfenced within the Technology Solutions Reserve as required across 2020/21 and 2021/22 as set out in section 4.1. Drawdown of the contingency from the reserve will be subject to separate governance.
- 2.3 Note that there is an ongoing estimated additional cost of £679,000 per year from 2022/23 as a result of moving to Oracle Fusion Cloud. This relates to the future support model required to manage Oracle Fusion Cloud and the costs for third-party subcontracts being replaced. Proposals to mitigate these

costs are in development and unquantified, however, it is anticipated that these will offset the additional costs identified.

3. Summary of issue

- 3.1 The Corporate Systems Programme (the "Programme") was initiated in June 2019 to ensure the continuity of critical ECC corporate services (Finance, HR and Payroll) when the current Fujitsu contract (referred to as TCS – Transforming Corporate Systems) expires in July 2021.
- 3.2 A Cabinet Decision in March 2020 approved the replacement of the current Fujitsu contract with Oracle Fusion Cloud and approved procurement of the system via a call off from the Healthtrust Europe Framework. It was also agreed that Fujitsu would provide system implementor services to ECC under the terms of the current Fujitsu contract to assist with the implementation of Oracle Fusion Cloud licences.

Drawdown for Tranche 1 Costs

- 3.3 ECC officers have completed implementation planning and costing for the Programme. Tranche 1 of the Programme spans the period 1 April 2020 to 31 March 2022 and is estimated to be at a cost of £13.59m, £5.1m of which was approved to be drawn down from reserves previously in March 2020. Tranche 1 includes Business Design and Business Change including the following outputs:
 - 3.3.1 ensure immediate business needs are met whilst enabling planned upgrade costs to TCS to be avoided;
 - 3.3.2 design and implement new internal processes in order to adopt Oracle Fusion without customisation, supporting functions to adopt the new processes (e.g. training and post commencement support);
 - 3.3.3 design and implement the future support model required to manage and maintain Oracle Fusion; this will be subject to further governance via the Executive Director in consultation with the Organisational Design Authority (these estimated costs for 2021/22 are included within the Tranche 1 drawdown);
 - 3.3.4 ensure that integrations with other ECC systems are maintained;
 - 3.3.5 to scope, review and recommend future arrangements via novation, re-procurement or variation for existing sub-contracts that are managed by Fujitsu on behalf of ECC and the current BACS provision provided direct by Fujitsu under the Fujitsu contract - these will be subject to further governance (these estimated costs for 2021/22 are included within the Tranche 1 drawdown);
 - 3.3.6 to undertake a strategic review of other services that could be provided by Oracle Fusion Cloud including contract liquidity. The assessment would include

understanding the direction of travel for ECC services and change context such as Local Government Reform;

- 3.3.7 to scope and cost the exit assistance, reachback (ability to access the old system for a short period of time after we have moved to the new system) and archiving services to be requested under the terms of the Fujitsu contract - these will be subject to further governance (these estimated costs are included within the Tranche 1 drawdown);
- 3.3.8 to scope and cost the extension of current services under the Fujitsu contract to cover the circa 3 month period between expiry of the Fujitsu contract and commencement of Oracle Fusion Cloud – this will be subject to further governance (these estimated costs are included within the Tranche 1 drawdown);
- 3.3.9 to scope Tranche 2 of the programme.
- 3.4 **Tranche 2** A further report will be brought to the Cabinet or to the Cabinet Member as appropriate which will include funding and other decisions relating to:
 - 3.4.1 implementation of any new/additional core HR/Payroll and finance functionality identified in Tranche 1;
 - 3.4.2 implementation of any other modules identified through the strategic review carried out as part of Tranche 1;
 - 3.4.3 consideration of requirements that may arise as a result of any emergent reform of local government in Essex.
- 3.5 Finance modules are expected to commence in August 2021 and HR/Payroll modules are expected to commence in October 2021. Tranche 1 is expected to be completed by 31 March 2022.

Local Government Reform

- 3.6 Any changes to Local Government structures as a result of Local Government reform could impact the scope of the Programme, for example the number of licences purchased may not align with the requirements of a reformed Local Government landscape.
- 3.7 The drivers for the Programme were set out in a report to Cabinet in March 2020 and the recommendations in the Cabinet Paper remain unchanged. ECC requires a continuation of ERP services beyond July 2021 when the current contract with Fujitsu expires. We need to continue the implementation programme to ensure that ECC (with an annual turnover in excess of £1billion) has the critical infrastructure to effectively manage our resources. An ERP system is which is critical to its business function and work on replacing the current system cannot wait until a decision on the future of local government in Essex has concluded.

- 3.8 The current contractual term for ECC's Oracle Cloud Licences (which is to 2025 with an option to extend for a further 5 years) will overlap with Local Government Reform and changes to Local Government Structures.
- 3.9 ECC's current Oracle Fusion Cloud solution allows flexibility of transfer of licence numbers which mitigates some of the risk associated with the creation of a single or multiple Unitary Authorities across Essex.
- 3.10 Oracle Fusion Cloud is already used by Thurrock Council and several London Boroughs and Unitary authorities. It is market leading in new technology for large local authorities, which demonstrates that it has the functionality needed for a wider role. The current ECC licences are for 5 years and whilst there is no ability to terminate the licencing arrangements, there is an ability to transfer to new entities. ECC can also increase the number of licences.
- 3.11 Officers supporting the Programme are working with the ECC Local Government Reform Project to better understand the range of scenarios so that, where possible, the Programme can include flexibility to 'future proof' the design of the new system. This will also at the right time, include looking at the systems landscape across Essex and considering what transition plans would be required should Local Government Reform happen.

4 Issues for consideration:

4.1 Financial implications

Costs

- 4.1.1 In March 2020, it was reported to Cabinet that the Corporate Systems programme would have an estimated full life cost of £13.14m; the report clarified that this estimate would be reassessed following the procurement of the Systems Implementer, the Oracle Licences and completion of the detailed review of resource requirements to support implementation. This has led to a revised full life cost estimate of £13.59m; this estimate retains a reduced contingency of £500,000 to reflect the increased crystallisation of some of the costs as a result of the due diligence undertaken to date. The revised costs are set out in table 1 in the confidential appendix.
- 4.1.2 The contingency of £500,000 this amount is considered to be the minimum amount that would be required to support the implementation of the programme in the event of delay in delivery by 6 weeks or should additional requirements be identified. It is recommended that the contingency is held in reserves and would be subject to separate Governance if required.
- 4.1.3 The funding required for this project has been requested in two phases to enable the programme to proceed whilst getting clarity on the costs required,

to ensure transparency. The initial funding request of £5.1m was approved by Cabinet in March 2020; the second investment of £7.918m is now required to support the remaining implementation of Tranche 1 through to March 2022.

- 4.1.4 The remaining funding required to implement the programme was set aside in the MTRS in the Technology Solutions Reserve and is requested as follows.
- £533,000 in 2020/21
 - £7.385m in 2021/22
 - £500,000 to be ringfenced in the Technology Solutions Reserve as Programme Contingency (Subject to Separate Governance)
- 4.1.5 Table 2 in the confidential appendix sets out the total anticipated additional on-going costs (before consideration of savings) of circa £679,000 from 2022/23. The majority of these costs are primarily related to the establishment of the Future Support Model. There remains uncertainty with regard to the exact requirements for this support model and therefore the costs are an estimate at this stage. However, the requirement for a support model is understood in order to drive continuous improvement and to support change in a cost effective and managed approach to maximise the benefits and savings opportunities associated with implementing Oracle Fusion. The value of savings to offset the on-going costs are still to be quantified through the next phase of the programme and whilst this work is yet to be concluded, the identified pressure is expected to be mitigated and potentially exceeded.
- 4.1.6 A saving of £100,000 per annum is already built into the MTRS from 2021/22; this is anticipated to be realised through a revised operating model for Finance, enabled through the implementation of Oracle Fusion.
- 4.1.7 It should be noted that additional costs may be incurred due to the need to adapt current processes to align to the requirements of Oracle Fusion or to flex any programme planning assumptions; the extent to which such adaptations may be required is currently unknown and as such unquantified. Any costs arising in respect of process change within existing business capacity will be sought to be absorbed where possible, however, it is an inherent risk and will remain under ongoing review through the implementation phases.
- 4.1.8 Table 3 below sets out a summary of the resources required to support the Programme implementation, including opportunity costs for which no additional funding is sought.

Table 3: Total FTE Resource Summary

	2020/21 FTE Equivalent	2021/22 FTE Equivalent	2020/21 £'000	2021/22 £'000	Total £'000
Total New Resource Costs	34	63	2,882	4,434	7,317
Opportunity Costs	9	7	525	505	1,030
Total Resource Implementation Costs	44	70	3,407	4,940	8,347

Benefits

- 4.1.9 It is recognised that investing in a new Corporate System that will have a life of up to 10 years will give a better experience and greater resilience to the organisation; further it will support the operating model to work better both digitally and operationally through implementation of a modern infrastructure.
- 4.1.10 Analysis of potential benefits and costs that may arrive through the move to Oracle Fusion has been conducted. This will be subject to testing throughout the design of the solution and supported by detailed benefit descriptions and realisation plans. As identified, these will be fed into the budget setting process.
- 4.1.11 It is expected the first iteration of Programme benefits will be understood by mid-December 2020, and fully detailed by mid-March 2021. The programme proposes that updates on both the benefits and costs of the programme are provided to CLT on a regular basis in line with these timescales. The table below summarised the key benefits and disbenefits identified to date.

Oracle Fusion / Programme Outcome	Benefit Description
Upgrades are quarterly releases included as part of Oracle Fusion licence model	No more big system upgrades required to TCS.
Enhanced User Experience	Oracle Fusion is a more user focussed intuitive product, that will evolve and be updated regularly, this will lead to increased employee productivity as a result of reduced time spent using TCS and increased levels of self-serve.
Reduction in change request to ERP system	Fujitsu change request costs
	ECC process costs to manage change process
Reduction in system complexity and workarounds	Can remove costs of supporting workarounds and managing TCS
	Reduction in number of errors currently being produced by our current system due to misuse/misunderstanding of the system and complexity our current processes.
	Quicker processing - new business processes will reduce delays and bottle necks in process waiting times
	Improved / simplified decision making as a result of a more intuitive solution (e.g. configurable dashboard / reports or real time data) - End users
	Internal process change required to Adopt Oracle Fusion solution - Professional User, End User, Support Staff

	Internal organisational change requirements to Adopt to Oracle Fusion solution
No service management contract required	No requirement to retain service management contract with Fujitsu
	Internal process change required to manage Oracle Fusion solution - Support Staff (Future Support Model)
	Internal organisational change requirements to manage Oracle Fusion solution (Future Support Model)
Alternative device access	Employees to access Oracle Fusion from alternative devices improving access to system and providing organisational resilience
Not reliant on ECC Network	Enhanced resilience of system, access to system as not dependent on ECC network / infrastructure
Legal compliance	As solution cannot be customised the risk of system being non-compliant with legal requirements (e.g. GDPR) is reduced
Maintains financial control	Retains existing robust financial controls / data integrity (single source of the truth)

4.2 Legal Implications

- 4.2.1 The proposed implementation and exit services under Tranche 1 (including extension of services under the Fujitsu contract, exit assistance and arrangements relating to third party sub-contracts) are permitted under the Fujitsu contract. Separate governance will be required to give effect to these matters.
- 4.2.2 It is noted that part of the drawdown contains a budget for extension of services under the Fujitsu contract, exit assistance and arrangements relating to third party sub-contracts - drawing down of money from reserves does not authorise such expenditure and it must be authorised by the relevant decision-maker in each case in due course.
- 4.2.3 Drawdowns from reserves need to be approved in accordance with financial regulations.

5 Equality and Diversity implications

- 5.1 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.
- 5.2 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).
- 5.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a protected characteristic.

6 List of appendices

Equality Impact Assessment

Confidential Appendix

7 List of Background Papers

None

Forward Plan reference number: FP/777/07/20

Report title: Section 75 Agreement for the Provision of Adult Mental Health Services	
Report to: Cabinet	
Report author: Nick Presmeg, Executive Director for Adult Social Care	
Date: 15 September 2020	For: Decision
Enquiries to: Emily Oliver – Head of Strategic Commissioning and Policy – Tel 0333 013 6275 or email Emily.Oliver@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The current Section 75 Partnership Agreement with the Essex Partnership University NHS Foundation Trust (EPUT) for the provision of adult mental health services comes to an end on 30 September 2020. This report seeks approval to enter into a new Section 75 Partnership Agreement with EPUT for a two year period, with the possibility of extending it for a further six months.

2. Recommendations

- 2.1 Agree to enter into a new Section 75 Partnership Agreement with EPUT from 1 October 2020 for a period of two years with the right for the council to extend for a further six months.
- 2.2 Agree that the Executive Director for Adult Social Care is authorised to approve the terms of the proposed new Section 75 Agreement

3. Summary of Issue

- 3.1 Essex County Council, through its partnerships with NHS bodies and the wider system, are committed to commissioning high quality and innovative mental health outcomes that are designed by people with lived experience, and which promote recovery and reduce inequalities in order that people reach their full potential.
- 3.2 Since 2002, the Council has been party to Section 75 Partnership Agreements which have allowed for the delegation of the Council's statutory functions in respect of mental health management services ("MH Services") to NHS bodies. Previously arrangements were in place with the North Essex Partnership NHS Foundation Trust (NEPT) and South Essex Partnership University NHS Trust (SEPT)). In 2017 SEPT and NEPT merged to create the Essex Partnership NHS Foundation Trust (EPUT). The two Section 75 Partnership Agreements novated to EPUT and came to an end on 31 March 2019. ECC entered into a new Section

Section 75 Agreement for the Provision of Adult Mental Health Services

75 Agreement with EPUT from 1 April 2019 until 30 September 2020, when the current agreement comes to an end.

- 3.3 The MH Services provided under the agreement are for the coordination and delivery of the Council's statutory activities for social care assessment and care management for adults with mental health needs. Resources are transferred to EPUT from the Council in the form of finances and staff in order for EPUT to undertake these tasks and to integrate them into their clinical provision. For historical reasons, some services in south Essex are delivered by ECC staff seconded to EPUT, whilst in the north the same services are provided by EPUT staff.
- 3.4 The current agreement comes to an end on 30 September 2020 and cannot be extended further.
- 3.5 Over the past 18 months the partnership has made positive progress in achieving greater transparency on use of Council resource and the outcomes being achieved. This has been achieved by improved management information and more robust performance reporting.
- 3.6 The partnership (between the Council and EPUT) has strengthened operational practice for the services with a jointly owned Operational Development Plan ensuring continuous improvement. The new agreement will develop this further with the inclusion of Social Work Practice Standards.
- 3.7 The proposed new agreement is intended to support partnership working during implementation of Sustainability and Transformation Partnership Mental Health Plans ("STPs") and to align with the ECC Adult Social Care Business Plan, EPUT and local plans.
- 3.8 The proposed agreement is intended to cover a period of expected rapid change, reflected in the STPs as new service offers are put in place. This will allow ECC and EPUT to determine if a new agreement needs to be put in place or if different arrangements will apply on expiry of the new agreement. This agreement is also being put in place in the wake of the Covid-19 pandemic and in expectation of a change in demand associated with mental wellbeing. This may require further agreed flexibility in the delivery of the agreement which will be agreed by both parties.
- 3.9 Service users have been engaged and dialogue has taken place with people whom have experience at various points in the current system. Stakeholder engagement highlighted that service users would like support to focus on issues such as suitable accommodation, meaningful and purposeful things to do (which could be employment), social networks, good relationships and a sense of belonging within their communities so there will be a focus on achieving these outcomes within the new agreement.
- 3.10 Entering into this agreement contributes to the following Strategic Priorities for the Council:
 - Enable more vulnerable adults to live independent of social care

- Improve the health of people in Essex
- Help people in Essex prosper by increasing their skills.

3.11 The proposed agreement will support the strategic focus of the ECC Adult Social Care Business Plan and the Southend, Essex and Thurrock Mental Health and Wellbeing Strategy and result in the following outcomes:

- Prevention – by allowing the workforce to address wider issues of mental wellbeing in the context of a better integrated offer which includes a broader range of community partners
- Early intervention and recovery – by ensuring the mental health offer can respond quickly and avoid crises where possible and actively promote recovery
- Enablement – by ensuring that people with mental health issues are effectively supported to regain control of their lives after a period of acute illness, including returning to employment and being appropriately housed
- Safeguarding – by proactively promoting the safeguarding of vulnerable people through its prevention and early intervention
- The lived experience – by ensuring the adults and their families are actively participating in developing the approach and the offer.

4. Options

Option 1: Implement a new, 2-year, Section 75 Partnership Agreement with EPUT for the delivery of Mental Health Management Services (Recommended Option)

- 4.1 This report recommends that a new 2-year Section 75 Partnership Agreement is put in place with EPUT for the delivery of integrated Mental Health Management Services on behalf of the Council with the option to extend the contract by up to six months. A short-term agreement is recommended because the Council needs more time to re-design the model supporting the long-term strategy. This interim measure will enable the Council to complete the re-modelling of the MH Service delivery in Essex with the ambition of achieving an integrated outcome-based delivery model for Mental Health in Essex.
- 4.2 During the period covered by the new Section 75 Partnership Agreement, it is anticipated that the Sustainability and Transformation Partnership Mental Health Plans will be implemented and the CCG commissioning will become clearer. In line with this, the Council will take the opportunity to conduct a collaborative service redesign exercise for potential long term delivery options which will take into account the wider system and how the Council can help ensure the best mental health outcomes for its residents.
- 4.3 During this period the Council can focus on:
- assessing how the partnership develops and allow time for a longer-term commissioning exercise to take place

- look at the best configuration for social work within the broader mental health system (including the potential impact of Sustainability and Transformation Plan footprints and Primary Care Networks in the NHS)
- a full and transparent picture of where funded activity is meeting a statutory requirement and where it is not
- defining and furthering the outcomes and aspirations of people using mental health support
- implementing the Southend, Essex and Thurrock Mental Health and Wellbeing Strategy
- The long term funding envelopes for access, assessment and care management
- The long term staffing strategy.

Option 2: Option 2: Enter into a new Section 75 Partnership Agreement for a 12-month period on the same terms as the current agreement. (Not Recommended)

- 4.4 Option 2 would not allow the time required to develop a long-term delivery model in partnership with the wider system, therefore, it is not recommended.

5. Issues for consideration

5.1 Financial Implications

5.1.1 The Medium-Term Resource Strategy (MTRS) provides £12.6m for the 2.5 year period from 1st October 2020 at current prices, for the Council's contribution to the Section 75 agreement. The Council's current annual contribution to the S75 agreement is £5m, which if rolled forward for 2.5 years would cost £12.6m (rounded), and so would fall within the available funding envelope.

5.1.2 The Council will seek to reduce its contribution marginally to recognise increased involvement of the Council senior management in the management and professional oversight of the partnership. Within the MTRS there is a savings target of £300,000 relating to the mental health care and assessment services underpinned by this partnership agreement. The service will need to determine how this savings target will be delivered as part of the 2021/22 budget setting process.

5.1.3 The savings target is one element of this budget. The service are also currently reviewing the additional demand that may present post COVID-19 which will need to be built in to the budget as additional demographic pressure if deemed to be required, and therefore subject to further decision.

5.2 Legal Implications

5.2.1 Under the National Health Services Act 2006, local authorities and NHS bodies can enter into partnership arrangements to provide a more streamlined service and to pool resources, if such arrangements are likely to lead to an improvement

in the way their functions are exercised. The powers permit the exercise by an NHS body of a local authority's prescribed health related functions in conjunction with the exercise of the NHS body of its prescribed functions including the provision of staff, goods or services or the making of payments between the two partners.

5.2.2 It is proposed that a new Section 75 Agreement is entered into between the Council and EPUT to take effect on 1 October 2020 for a two year period with the right for the Council to extend it for a further six months.

5.2.3 The new Section 75 agreement will contain a voluntary termination right for both parties which can be exercised by serving 6 months termination notice at any time during the life of the agreement. The agreement will include agreed outcomes and performance measures for the service.

5.2.4 The Council has control of care purchasing budgets for individual packages of care which are scrutinised and approved by the Council. This will remain the position in the current agreement.

6. Equality and Diversity implications

6.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council 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.

6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.

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 characteristic.

7. List of appendices

Equality Impact Assessment

8. List of Background papers

Current Section 75 Partnership Agreement

Forward Plan reference number: FP/778/08/20

Report title: Procurement of a Framework for Live at Home (LAH) Domiciliary Support	
Report to: Cabinet	
Report author: Nick Presmeg, Executive Director for Adult Social Care	
Date: 15 September 2020	For: Decision
Enquiries to: Moira McGrath, Director, Commissioning (Adult Social Care) email moira.mcgrath@essex.gov.uk; Jo Rogers, Commissioning Manager for Older People, jo.rogers@essex.gov.uk; Claire Felton, Category and Supplier Relationship Specialist Claire.felton@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To approve a new Live at Home framework for the provision of long-term domiciliary care and support services, to commence in February 2021.

2. Recommendations

- 2.1 Agree to invite tenders to establish a new Live at Home framework for the provision of Domiciliary Care Services across Essex, for a period of 4 years on the basis set out in paragraphs 4.2-4.8 and section 5 of the report.
- 2.2 Agree that, subject to any change required by paragraph 2.3, the pricing matrices for the first 12 months will be based on the pricing matrices set out in Appendix C with an annual price review thereafter.
- 2.3 Agree to uplift the minimum hourly rate for standard domiciliary services delivered via the Live at Home Framework and spot purchasing arrangements from £16.56 to £18.04 for all new and existing packages, with the exception of 24 hour / live in care and night sleeping services, with effect from 4 April 2021.
- 2.4 Agree that tenders will be evaluated using the following ratios for price and quality of 60:40 with some of the quality evaluation questions focusing on social value e.g. employment of local workforce.
- 2.5 Note that the Cabinet Member for Health and Adult Social Care will:
- (i) authorise the amended pricing matrices for each year of the framework period and any increases required to the rates paid for spot placements to correlate with the minimum price points on the matrices for the framework;
 - (ii) agree whether or not to open the Framework to New Entrants and undertake a full refresh of the Framework at the end of Year 2 of the framework period in the districts where (on average over the preceding

- 12 month period) in excess of 30% of the packages offered through the framework are being placed with providers outside of the Live at Home Framework (indicating the need for additional framework capacity); and
- (iii) award the contracts to the successful providers upon completion of the procurement process and any refresh processes undertaken at the end of Year 2 of the framework period, including any changes to districts which have not been opened to New Entrants

- 2.6 Authorise the Executive Director for Adult Social Care, in consultation with the Cabinet Member for Health and Adult Social Care, to extend the current framework agreement by a period of up to 6 months and to review the interim price arrangements, should the Covid-19 pandemic impact on the market's ability to respond to the tender or delay the procurement process

3. Summary of Issue

- 3.1 The Council has a statutory duty to meet eligible needs under the Care Act 2014. Providing domiciliary care and support is one way to meet those needs. Those duties have to some extent been amended by the Coronavirus Act 2020 but the Council continues to aspire to meet those needs. Beyond its legal obligation, the Council has the ambition of optimising the quality and continuity of care within the financial envelope available.

- 3.2 The 2020/21 budget includes approximately £100m for long-term domiciliary care services provided for people eligible to receive adult social care services. These are classified as

- Older People (65+),
- Adults with Learning Disabilities and Autism,
- people with Mental Health Needs, Physical and Sensory Impairments; and
- Carers.

Before the Covid-19 pandemic, the Council supported approximately 6,200 people with 112,000 commissioned hours of support a week and in October 2019 the average weekly package size was just under 18 hours.

- 3.3 Services are currently commissioned via a Live at Home framework or where this is not possible, either because needs are too specialist or because the providers on the framework are not available, via spot purchase arrangements.
- 3.4 The current framework expires on 11 February 2021. Without a new framework in place or an extension to the current framework, the Council's only option would be to purchase services via 'spot' arrangements. These packages of support are negotiated individually, and there is no legal mechanism for agreeing price; which can lead to an uncontrolled increase in rates.
- 3.5 One issue with the current framework is that providers who meet a minimum quality threshold are ranked according to price, with the cheapest provider being offered a new package of care first. This incentivises providers to

provide low cost care with a minimum acceptable quality. This is not necessarily consistent with the aim of enabling people to live as independently as possible for as long as possible since higher quality providers may be better able to achieve this outcome, thereby reducing the long term cost of care provision.

- 3.6 The current framework model has been successful in increasing supply and securing capacity (e.g. of reduction in unmet need) whilst maintaining control over price. Since the implementation of the framework the number of providers on it has increased from 60 to 125 and the proportion of services sourced using the framework has increased from 40% to 70%. In addition to this the Council works with circa 180 providers who are not on the framework but whose services are 'spot' purchased.
- 3.7 The number of providers on the framework does not support the development of strategic supplier relationships. Despite the overall increase in capacity, there are still some areas of the county where it remains hard to source (e.g. rural West and Mid Essex). In addition to this, although the current single-tier model does achieve value for money using the ranked list approach, the current structure means that packages are not always offered first to the higher quality providers.
- 3.8 In partnership with stakeholders, the Council has reviewed the options for the delivery of the service. A number of models were considered, including a lead provider, with one provider responsible for the delivery of all domiciliary services within a specified geographic area, and establishment of a 'dynamic purchasing system' which is a fully electronic purchasing system where providers would be able to bid for individual packages of care being offered by the Council.
- 3.9 As part of this activity, a number of opportunities to undertake experimental 'test and learn' exercises were identified which we could have used to identify whether there were alternative ways to procure. More detail about these opportunities can be found in Appendix B. However, we have been unable to progress these opportunities due to the impact of the Covid-19 pandemic. This has impacted on capacity within the Council and within provider organisations and it would not have been appropriate to progress them.
- 3.10 The Council must have a mechanism for purchasing and ensuring the supply of domiciliary care services that complies with the Public Contracts Regulations 2015. Due to the impact on resources caused by the Covid-19 pandemic, there is now a reduced timeframe for procuring and implementing something to replace the current Live at Home Framework. Officers are now seeking to procure a new framework to commence upon expiry of the existing Live at Home Framework in February 2021, whilst continuing to progress the work on the 'test and learn' exercises.
- 3.11 The longer-term aim is to continue the 'test and learn' exercises and if any of them appear to be scalable and successful then a report will be brought back to the Cabinet to ask them to agree that they can be scaled. This may be done

with the new framework still in place, since the Council is not proposing to commit to use the proposed new framework for all or any packages of care.

- 3.12 It should also be noted that whilst we currently aim to have the new framework in place for February 2021, it is possible that the number of COVID-19 cases could impact on the capacity of the Council to run the procurement and the capacity of providers to respond.

Uplift of Existing Care Packages

- 3.13 Every year the Council reviews the minimum fee which it believes it should pay for domiciliary care and it increases all rates for care which are below this.
- 3.14 The Council's cost of care model has been updated to reflect estimated costs for 2021/22. This has resulted in an increase of 8.9% from the 2020/21 rate, with the minimum hourly price being £18.04, except for 24hr / live in care and night sleeping.
- 3.15 The largest factor behind the change is the anticipated rise in National Living Wage, which accounts for 5.7% of the increase when compared to the 2020/21 rate. This is because the increase impacts not only the hourly rate paid to frontline care-workers, but also other overheads incurred by care agencies.
- 3.16 Additionally, several other allowances have been increased, based on the UK Homecare Association's most recent cost of care model. These allowances include the costs of sick pay, regulation and registration, recruitment, training and IT.

4. New Live at Home Framework

- 4.1 It is proposed that the Council will procure a new Live at Home Framework which will:
- 4.1.1 Support the aim of the Essex Vision that people enjoy life long into old age. This will be done by using a tiered approach meaning that high quality providers are offered the work first which we believe is likely to prioritise the use of providers best placed to reduce and delay the deterioration of Adults' skills, abilities and well-being.
- 4.1.2 Enable the prioritisation of high quality suppliers, enabling the Council to develop stronger relationships with higher quality providers. These relationships will:
- help the Council to develop and embed initiatives that may include Trusted Assessors; increasing access to and the use of technology to support care delivery; accessing community assets and support; embedding a preventative and enabling approach to support Adults to retain skills for longer.

- give these Providers confidence to recruit greater numbers of staff to develop their business.

4.2 To achieve this, it is proposed that the framework will have the following structure:

4.2.1 There will be 27 Lots:

- (i) One for each of the 12 districts for services for Older People age 65+, Mental Health and Physical / Sensory Impairments;
- (ii) One for each of the 12 districts for services for individuals with Learning Disabilities or Autism;
- (iii) One for 24 Hour / Live In Care for Older People aged 65+, Mental Health and Physical / Sensory Impairments;
- (iv) One for 24 Hour / Live in Care for individuals with Learning Disabilities or Autism; and
- (v) One for services delivered within HMP Chelmsford.

4.2.2 Each Lot (other than those for 24 hour care) will have a separate price matrix for different services. There will be five service types: personal care, night awake, night sleep, carers break and carers support.

4.2.3 Providers will select one of five price points for in the pricing matrix for each type of work/lot they wish to provide, with the exception of Epping where there are six price points.

4.2.4 All providers meeting the minimum quality standards will be admitted to the framework for the lots where they have expressed an interest. Providers will be split into two tiers.

- There will be up to ten Tier 1 providers on each lot.
- No one will be permitted to be a Tier 1 provider unless they have, and have maintained for the previous 12 month period, a CQC Rating of either “Good” or “Outstanding” both as an overall rating, and individual for the Key Line of Enquiry (KLoE) for “Safe and Well Led”.
- Providers meeting the CQC requirement above will also be required to answer additional quality questions. If there are more than ten providers eligible for Tier 1 on a particular lot then all eligible providers will be ranked based on their quality score.
- Tier 1 providers will be demoted to Tier 2 at the end of each year unless they have accepted at least 5% of the total packages awarded under that lot. This may be difficult for some Tier 1 providers with a low ranking but in practice it is considered unlikely that any provider will take large proportions of the work offered.

4.2.5 A ranked list will be produced for each tier and each lot. The ranking will be based on Providers’ overall score for Price, Quality (weighted 60:40).

4.2.6 When the council wishes to purchase a package of care under the framework it will initially be offered to the highest ranked Tier 1 provider. If the Tier 1 provider does not accept the package, it will be offered to the Provider ranked in Position 2, and so on until the package is accepted. In the event that the package is not placed with a Tier 1 Provider, it will be offered to the Provider in Position 1 of Tier 2 for the relevant lot and so on until the package is accepted by a Tier 2 Provider.

4.2.7 In addition, the Council may designate an area as a Target Supply Area (TSA) where there are sourcing difficulties, perhaps because the area is very rural. Providers will be asked to indicate the basis on which they will accept new packages in a TSA which will either be no TSA Rate or one of two additional hourly rates (£1.40 and £2.80). The TSA Rate will only be applied to new packages in TSA areas and would remain until such time as the package ends or changes. The Council will review which wards are defined as TSAs on an annual basis and may amend TSAs in line with demand and any ward boundary changes.

4.2.8 There will be Key Performance Indicators (KPIs) which will be detailed within the Contract. The KPI data will be used to measure providers' performance and determine their position on the ranked lists. Ranked lists will be refreshed at least quarterly. The Council may amend the KPIs on an annual basis.

Refreshing the Framework

4.3 The current Live at Home Framework is 'refreshed' once every 12 months. This enables the Council to:

- re-rank existing providers based on the score achieved for Quality (measured by achievement of Key Performance Indicators for the previous 12 months) and the score attributed to the price selected by the Provider; and
- admit New Entrants to the framework in accordance with the original published criteria.

4.4 The current process has been very successful in creating market stability and an increase in supply, however it is administratively burdensome for the Council and for Providers.

4.5 The proposals for the refresh of the new Live at Home Framework are as follows:

4.5.1 At the end of every year of the framework period, the relevant pricing matrices will be reviewed. All Tier 1 and Tier 2 providers shall be permitted to select new prices from the relevant pricing matrix. The score for which shall be combined with the score achieved for Quality (based on their achievement of Key Performance Indicators for the previous year) and then re-ranked accordingly and a new ranked list will be prepared.

4.5.2 At the end of every year of the framework any Tier 1 provider which has not accepted 5% of all packages offered via the framework will be demoted to a

Tier 2 provider. In addition, any Tier 1 provider which no longer meets the CQC criteria will be demoted to Tier 2. Failure to meet the CQC criteria at any point during the framework period will lead to demotion to Tier 2 at either the next quarterly re-rank or the end of the framework year.

- 4.5.3 At the end of Year 2 of the Framework, lots under the framework will be re-opened to new entrants where during the previous year in excess of 30% of the packages offered through the framework in that lot has ultimately been placed with spot providers outside of the framework (indicating the need for additional framework capacity). Where this happens both Tier 1 and Tier 2 will be opened to new entrants and a new ranked list prepared.
- 4.5.4 At the end of Year 2 and Year 3 of the framework period, Tier 1 will be opened up to existing Tier 2 providers to fully refresh all of Tier 1 for Lots where the average price of packages submitted by Tier 1 providers for that year in a district is greater than the second highest price point for that year. The criteria for admission to Tier 1 will remain as originally proposed.
- 4.5.5 At the end of Year 2 and/or Year 3 of the framework period, those Lots where there are one or more vacancies in Tier 1 and more than 51% of the packages in that district are being not being accepted by Tier 1 suppliers.
- 4.6 This enables the Council to refresh the framework in a more targeted way and to increase supply and competition where it is needed, rather than using a blanket approach across the County which is time consuming and burdensome for both the Council and the Providers.
- 4.7 The Council may, subject to the restrictions and requirements within the Public Contracts Regulations 2015 amend or update the framework and any elements in accordance with market intelligence, legislative changes, KPIs or organisational intelligence to ensure market stability, the Council's statutory duties or affordability.
- 4.8 In addition to the Ranked Lists, the new framework will contain provisions which enable the Council to undertake a Mini-Competition process to place packages with providers individually or in groups outside the Ranked List Process. This might be used if, for example, there is provider failure or where the needs of the Adult(s) require additional considerations outside of the criteria used to create the Ranked Lists.

5. Other Considerations

- 5.1 All providers will be required to use an Electronic Homecare Monitoring (EHM) system as a mandatory requirement for all framework providers, although an implementation period will be allowed during the early months from the commencement date. A digital application database is being developed by the Council. Once this system is ready, providers will be required to upload monitoring information to the system. This will enable the Council to collect data for KPI reporting and have oversight of a range of metrics linked to the

quality and safety of care delivered by providers. Pending the success of this solution, the Council reserves the right to require the framework providers to implement EHM upon provision of reasonable notice by the Council.

- 5.2 The Council may seek to introduce other digital solutions to support sourcing and market oversight and management such as an e-procurement tool.
- 5.3 The Council reserves the right to include and use the Accelerate (Oxygen) scheme to speed up the payment process times for providers in return for a small discount on the total invoice cost.
- 5.4 The Council may seek to introduce the use of Trusted Assessors utilising a toolkit to enable delegation of responsibility, to complete Care Act assessments and/or reviews on the Council's behalf. This will be introduced in a transparent and fair way.

6. Options

A number of options have been considered:

6.1 Option 1: Do nothing and leave the current Live at Home Framework to expire

Upon expiry of the current Live at Home Framework on 11 February 2021, the Council's only mechanism for placement of new packages would be via 'spot' arrangements. Historically, average spot contract rates are higher than the average rate of packages procured through other arrangements e.g. the framework and block contracts. Therefore, this would be an expensive option with no agreed sourcing mechanism to ensure best value and no control over prices submitted by providers.

6.2 Option 2: Lead provider / guaranteed hours model

Under this option a lead provider is appointed for a defined geographical area to deliver, either wholly by themselves or via subcontracting arrangements, a specified volume of work at an agreed price. There are providers in the market that have the appetite, maturity and digital capability to deliver this option, but at present this may not be possible across the county and could lead to a reduction in competition. This option is being explored more fully in the 'test and learn' exercise.

6.3 Option 3: Re-procure framework in its current form

This would not address the issues within the current contract which are that lower quality providers can be offered work ahead of higher quality providers if they have submitted lower prices. Also, market and internal stakeholder feedback is that administration is overly complex due to the numerous pricing points and ranked lists.

6.4 Option 4: New framework using a tiered supplier approach (Recommended option)

To procure a new two-tier framework, whilst completing test and learn

exercises to highlight new ways of working and the trial of digital technology solutions enables the Council to continue to do business with a stable market, whilst investigating ways of commissioning domiciliary care services differently; acknowledging that 'one size fits all' may not be the most appropriate approach. A two-tier framework requires a higher quality standard to be a Tier 1 provider which enables the Council to establish strategic relationships with providers that will have the confidence to expand as they have more assurance of being offered a higher volume of work. A result of which is that a greater proportion of packages will be placed with good quality suppliers.

6. Issues for Consideration

7.1 Financial Implications

- 7.1.1 The budget for 2020/21 includes c£100m for long term domiciliary care packages (excluding Supported Living and Extra Care schemes). This was based on packages in October 2019 and assumptions around growth in both spot packages and those on the Live at Home Framework at that time.
- 7.1.2 Post Covid-19 volume and activity is uncertain at this time: future demand modelling is currently being undertaken to enable forecasting of future activity levels and for assumptions around this to be built into our Medium-Term Resource Strategy (MTRS). Initial expectations are that volumes of home care will increase as a result of the pandemic, with a likely downturn in residential placements, however, this will be impacted by other factors, such as complexity of need, all of which are being considered.
- 7.1.3 For financial modelling purposes, the data from October 2019, which was used to build the current budget and MTRS, has been used to establish the estimated impact of the LAH proposals on the price assumed in future years. This means that the price impact estimated in this document will not be the actual pressure because any price increase will be exacerbated by the expected volume issues set out above. The final 2021/22 budget will be based on revised volume data from Autumn 2020, which will adjust the volume assumptions and therefore the total budget.
- 7.1.4 The MTRS assumes an annual price increase of 8.5% for new packages in all care types, apart from 24-hour care and night sleeping. After considering the impact of packages being uplifted to the minimum rate and applying churn estimates, the blended inflationary growth applied in the budget was 5.5% per year to cover annual uplifts.
- 7.1.5 The recommendation (set out in section 2) is to increase the price on the LAH matrix by 8.9% for new or changes to packages across all care types, excluding night sleep and 24-hour live-in care, which will remain at the current rate. The recommended increase is the result of a review to the Council's Cost of Care model, as described in paragraphs 3.13 to 3.16 of this report. The blended inflationary growth after considering churn and minimum price uplifts is

therefore 5.9%. This equates to an expected financial pressure of **£444,000** on price compared to that set out in the current MTRS.

7.1.6 Consideration must be given to the impact of churn within the market as existing packages expire, and new packages are contracted either at the new framework rates or at spot. At this stage, the financial modelling assumes that the churn rates will not change radically between 2019/20 and 2021/22. There is a risk that Tier 1 providers could drive up the average price due to higher quality, however, this may be mitigated by competition between the providers to reach Tier 1 and the provision set out in paragraph 4.5.4 whereby Tier 1 will be opened up at the end of Year 2 and Year 3 of the framework period if the average price for that tier is higher than the second highest price point.

7.1.7 The modelling also assumes that the Live at Home framework and spot arrangements will be maintained at the current proportional split. 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 from Procurement but there is a risk that prices may be higher as spot prices are inherently volatile and the balance of spot to framework packages could change. The spend and package types will be regularly reviewed during the year to ensure any issues are identified and to ensure timely and appropriate mitigations can be put in place and any change in costs are forecast appropriately.

Financial Risks:

7.1.8 At present it is not clear how the Covid-19 crisis will impact on price, volumes and average length of care packages in the longer term, so bidder pricing behaviour has been modelled based on previous experience. There are potential risks, arising since the pandemic, which could include the threat of carers leaving the workforce, increased costs of PPE and possibly the introduction of new guidance. There is a further risk that the exit from the European Union could also increase prices.

7.1.9 For the period 19th March 2020 to 30th September 2020, home care providers are able to access grant funding for additional expenditure incurred as a result of Covid-19. It is likely that home care providers will face ongoing marginal costs relating to Covid-19, in particular for increased PPE requirements, beyond the current period of financial support.

7.1.10 There is a risk that homecare rates will escalate as a result of ongoing Covid-related pressures and form a new burden for the Council that could cost in excess of £4m per year. The Council will continue to make the case for additional emergency funding from Government if this situation arose.

7.2 Legal implications

7.2.1 Officers have recommended that the current Live at Home Framework is extended by up to 6 months in the event of instability in the market, or delays to

the procurement process as a result of implications caused by COVID 19. It is the Council's intention to procure the new Live at Home Framework in order that it may commence upon expiry of the current framework. However, the current COVID-19 pandemic may have implications for both the Council and the market which are unforeseeable at this time. In the event of unforeseen circumstances, which cause a delay to the procurement process, the Council is likely to be entitled to rely on the provisions of Regulation 72 (1)(b) or (c) subject to satisfaction of the requirements with regard to value.

7.2.2 Live at Home (Domiciliary Care Services) fall within "social and other specific services" within Schedule 3 of the Regulations and the total contract value is estimated to exceed the threshold of £663,540. 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.

7.2.3 Section 7 of Chapter 3 of the Regulations requires the Council 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 7.2.5 below).

7.2.4 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.

7.2.5 As detailed above, the Council is required to publish its intention to award a contract by publication of either a Contract Notice or a Prior Information Notice. Whichever form of notice is used, it must contain the following information:

- a) Conditions for participation;
- b) Time limits for contacting ECC; and
- c) The award procedure to be applied.

7.2.6 The Council has a duty under the Care Act 2014 to meet an Adult's eligible care and support needs, one of the ways the Council is able to do this is by way of provision of domiciliary care services.

7.2.7 The Council may choose to implement "Trusted Assessors" which enables third parties to undertake an assessment of an Adults eligible care and support needs on the Council's behalf. There are a number of ways to do this, including the formal delegation of duties under the Care Act 2014.

7.2.8 Where the Council formally delegates its duties to a third party, this will need to be by way of a written contract.

7.2.9 The formal delegation of Care Act duties to a third party, does not absolve the Council of the ultimate responsibility of ensuring that these functions are carried out appropriately and correctly.

7.2.10 The Council has a duty under section 5 of the Care Act 2014 to promote the efficient and effective operation of a market in services for meeting care and support needs, with a view to ensuring that any person in its area wishing to access services in its area has a variety of providers to choose from. More detail about this is given in section 5 of this report. In discharging this duty the Council must have regard to ensuring the sustainability of the market.

7.2.11 With respect to the specific requirements of section 5:

- a) The Council makes available, information about the providers of services for meeting care and support needs and the types of services they provide.
- b) The Council regularly reviews demographic information about needs and likely future needs.
- c) The Council encourages providers to provide opportunities to participate in education or training although participation in work is less relevant for those older people who need residential accommodation;
- d) the importance of ensuring the sustainability of the market – the Council does this by monitoring the performance of providers.
- e) the importance of fostering continuous improvement in the quality of such services and the efficiency and effectiveness with which such services are provided and of encouraging innovation in their provision;
- f) the Council works hard to ensure that there is a high quality work force by training and recruitment initiatives as outlined above.

7.2.12 Paragraph 4.5.4 states that Tier 1 may be reopened to New Entrants in the event that the the average price submitted by Tier 1 providers for years 2 and 3 in a district is greater than the second highest price point for that year. It is possible that reopening Tier 1 for this reason, exposes the Council to increased financial risk as new Entrants may select higher rates therefore creating a more expensive position than that which triggered the refresh.

8. Equality and Diversity implications

8.1 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.

- 8.2 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).
- 8.3 The Equality Impact Assessment (EqIA) indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

10. List of appendices

Appendix A – Equality impact assessment

Appendix B – Proposed opportunities for Test and Learns

Appendix C – Proposed Live at Home Price Matrices 2021-22

11. List of Background papers

None

Appendix B - Test and Learns

Each test and learn will require its own separate governance outside of this framework. We propose trialing, but not limited to, the following:

- A Dengie Neighbourhood Team based on a Nordic personalised support model. Supply in the Dengie is historically difficult due to the rurality of the area and the time taken to travel between villages. This hyper local integrated health and social care team will test whether this way of working secures supply and improves the experience for the Adult. One year and go live in autumn 2020.
- Uttlesford – there is, and has consistently been, high unmet need in Uttlesford due to its rurality and affluence. The number of hours needed are low (around 1,200 per week across the whole district). Our neighbours in Hertfordshire experience similar challenges with supply, as do our West CCG Health colleagues for Continuing Health Care (CHC). We propose working towards integrated commissioning of small local guaranteed hours contracts with both organisations to improve supply.
- Braintree and Uttlesford – we propose trialing a hyperlocal community circles of care approach in areas where supply is historically difficult. This model uses an IT platform and back office infrastructure to support self-employed Personal Assistants to create self-sustaining virtual care hubs around people, paid through an Individual Service Fund mechanism. One year trial in two different geographies during 2020-21 testing whether a more personalised approach improves the experience for the Adult and secures supply.
- Tendring – approximately 40% of supply is through high cost spot contracts. We propose testing guaranteed hours for up to half of the demand in the area, aligned directly with the Clacton GP Alliance PCN. This will test integration with community health services and whether this model drives down cost. The aim is to run over two winters to also test whether guaranteed hours improve seasonal pressure supply. Go live in winter 2020.
- Guaranteed hours - where sourcing is historically challenging (Uttlesford and Braintree) and/or unmet need is high, we propose testing small block contracts of up to 50% of demand to see whether this way of working secures supply.
- Basildon – there is an oversupply in the town centre with around 60 framework providers. We propose testing guaranteed hours for up to 50% of demand alongside community micro provider development where small businesses are stimulated to creatively meet personalised care needs locally using Individual Service Funds and Direct Payments. We will test whether guaranteeing hours rather than spreading supply across many providers could support market shaping and successful micro provider development to create a system that meets needs, improves choice and

control and begins to change the way we deliver care by moving away from traditional time and task services. This test and learn will progress during 2020-21.

LIVE AT HOME FRAMEWORK PRICE MATRIX 2020/21

PREFERRED RATES excl Night Sleeping and 24 hour Live in Care

TSA rates MUST be selected from the same row as the Preferred rate selected

Minimum

Maximum

	North East		Mid			South East		South West		West		
Rate No.	Colchester	Tendring	Maldon	Chelmsford	Braintree	Castle Point	Rochford	Basildon	Brentwood	Harlow	Uttlesford	Epping Forest
1	£ 18.04	£ 18.04	£ 18.04	£ 18.04	£ 18.04	£ 18.04	£ 18.04	£ 18.04	£ 18.04	£ 18.04	£ 18.04	£ 18.04
2	£ 18.84	£ 18.84	£ 18.84	£ 18.84	£ 18.84	£ 18.84	£ 18.84	£ 18.84	£ 18.84	£ 18.84	£ 18.84	£ 18.84
3	£ 19.64	£ 19.64	£ 19.64	£ 19.64	£ 19.64	£ 19.64	£ 19.64	£ 19.64	£ 19.64	£ 19.64	£ 19.64	£ 19.64
4	£ 20.44	£ 20.44	£ 20.44	£ 20.44	£ 20.44	£ 20.44	£ 20.44	£ 20.44	£ 20.44	£ 20.44	£ 20.44	£ 20.44
5	£ 21.20	£ 21.20	£ 21.20	£ 21.20	£ 21.20	£ 21.20	£ 21.20	£ 21.20	£ 21.20	£ 21.20	£ 21.20	£ 21.20
6												£ 22.32

Non TSA & TSA RATE SCORES (All districts excl. Epping) excl Night Sleeping and 24 hour Live in Care

Rate No.	Non TSA Rate		TSA Rate 1		TSA Rate 2		TSA Rate 3	
	Price	Score	Price	Score	Price	Score	Price	Score
1	£ 18.04	60.0	£18.04	60.0	£19.44	51.5	£20.84	34.5
2	£ 18.84	45.0	£18.84	55.8	£20.24	43.0	£21.64	21.8
3	£ 19.64	30.0	£19.64	47.3	£21.04	30.3	£22.44	13.3
4	£ 20.44	15.0	£20.44	38.8	£21.84	17.5	£23.24	4.8
5	£ 21.20	0.0	£21.20	26.0	£22.60	9.0	£24.00	0.0

TSA rates	
Rate 1	£0.00
Rate 2	£1.40
Rate 3	£2.80

Non TSA & TSA RATE SCORES (Epping) excl Night Sleeping and 24 hour Live in Care

Rate No.	Non TSA Rate		TSA Rate 1		TSA Rate 2		TSA Rate 3	
	Price	Score	Price	Score	Price	Score	Price	Score
1	£ 18.04	60.0	N/A	N/A	N/A	N/A	N/A	N/A
2	£ 18.84	48.0	N/A	N/A	N/A	N/A	N/A	N/A
3	£ 19.64	36.0	N/A	N/A	N/A	N/A	N/A	N/A
4	£ 20.44	24.0	N/A	N/A	N/A	N/A	N/A	N/A
5	£ 21.20	12.0	N/A	N/A	N/A	N/A	N/A	N/A
6	£ 22.32	0.0	N/A	N/A	N/A	N/A	N/A	N/A

NIGHT SLEEPING PREFERRED RATES

Rate No.	North East		Mid			South East		South West		West		
	Colchester	Tendring	Maldon	Chelmsford	Braintree	Castle Point	Rochford	Basildon	Brentwood	Harlow	Uttlesford	Epping Forest
1	£11.76	£11.76	£11.76	£11.76	£11.76	£11.76	£11.76	£11.76	£11.76	£11.76	£11.76	£11.76
2	£12.28	£12.28	£12.28	£12.28	£12.28	£12.28	£12.28	£12.28	£12.28	£12.28	£12.28	£12.28
3	£12.52	£12.52	£12.52	£12.52	£12.52	£12.52	£12.52	£12.52	£12.52	£12.52	£12.52	£12.52
4	£12.68	£12.68	£12.68	£12.68	£12.68	£12.68	£12.68	£12.68	£12.68	£12.68	£12.68	£12.68
5	£13.04	£13.04	£13.04	£13.04	£13.04	£13.04	£13.04	£13.04	£13.04	£13.04	£13.04	£13.04
6	£13.32	£13.32	£13.32	£13.32	£13.32	£13.32	£13.32	£13.32	£13.32	£13.32	£13.32	£13.32
7	£13.56	£13.56	£13.56	£13.56	£13.56	£13.56	£13.56	£13.56	£13.56	£13.56	£13.56	£13.56
8	£13.80	£13.80	£13.80	£13.80	£13.80	£13.80	£13.80	£13.80	£13.80	£13.80	£13.80	£13.80
9	£14.08	£14.08	£14.08	£14.08	£14.08	£14.08	£14.08	£14.08	£14.08	£14.08	£14.08	£14.08

NIGHT SLEEPING RATE SCORES

Rate No.	Preferred Rate	
	Price	Score
1	£11.76	60.0
2	£12.28	52.5
3	£12.52	45.0
4	£12.68	37.5
5	£13.04	30.0
6	£13.32	22.5
7	£13.56	15.0
8	£13.80	7.5
9	£14.08	0.0

24 Hour Live in Care

Rate No.	Preferred Rate	
	Price	Score
1	£11.76	60.0

Forward Plan reference Number: **FP/776/07/20**

Report title: Transforming Community Care	
Report to: Cabinet	
Report author: Nick Presmeg, Executive Director, Adult Social Care	
Date: 15 September 2020	For: Decision
Enquiries to: Peter Fairley, Director for Strategy and Integration, email peter.fairley@essex.gov.uk or Moira McGrath, Director of Commissioning, email moira.mcgrath@essex.gov.uk	
County Divisions affected: All Essex	

1 Purpose of Report

- 1.1 This decision is about improving the effectiveness of community care services and improving outcomes for frail elderly Essex residents to help them to live as independently as possible and to help them recover from illness or setbacks.
- 1.2 This report asks the Cabinet to agree to award a contract to Newton Europe Limited, to provide consultancy services to support ECC in the design and implementation of the Transforming Community Care Programme.

2 Recommendations

- 2.1 Agree to award a contract to Newton Europe, via the Bloom Consultancy Solutions framework, for up to 2 years at a value of up to £9m to support ECC in its Design and Implementation Phase of the Transforming Community Care Programme and to support health partners in the wider programme scope, subject to agreement of terms and conditions by the Monitoring Officer, in consultation with the s151 officer.
- 2.2 Agree that the contract awarded to Newton Europe shall permit work to be undertaken for Essex CCGs and NHS Trusts operating in Essex.
- 2.3 Agree that the Cabinet Member for Health and Adult Social Care may agree the terms on which any work for NHS bodies is undertaken.
- 2.4 Agree that £2.3m is drawn down from the Transformation Reserve in 2021/22 in order to fund the element of the programme implementation cost to ECC falling in that financial year.

3 Summary of issue

- 3.1 The population in Essex is ageing, and with more people living for longer with multiple, and in some cases, complex needs, the demand for adult social care

is increasing. 21% of the Essex population is already aged over 65 and this will grow to 25% by 2032.

- 3.2 The Council's vision is 'for every adult to be able to live as independently as possible and to enjoy a good and meaningful life'. The Adult Social Care (ASC) Business Plan sets out five priority programmes to enable the Council to achieve this vision, including a programme to "transform community care."
- 3.3 In July 2019 the Council commissioned Newton Europe to undertake a system diagnostic review to look at how well the health and social care system is performing in terms of Intermediate care pathways and outcomes for individuals. Newton Europe have worked in numerous health and social care systems across the country to support system transformation and have worked closely with both the Department for Health and Social Care and NHS England on system reviews into delayed transfers of care.
- 3.4 The 2019 Essex diagnostic review suggested that there are opportunities to improve outcomes at the point of hospital discharge for 44% of elderly frail people. Achieving this would be good for Essex citizens and would also support a more viable and sustainable health and social care system. These results are consistent with similar reviews of other health and social care systems undertaken elsewhere in England.
- 3.5 The diagnostic review found:
 - i. There is opportunity to improve outcomes for 44% of older people with ongoing care needs at the point of hospital discharge, supporting them to live more independent lives and avoid the need for residential care.
 - ii. That people are far more likely to return to their own home after a hospital admission if they are discharged to a community care setting (up to 78% return home) than if they are placed in a temporary residential care setting (a 27% likelihood of returning home). It was estimated (at the time of the diagnostic) that 360 residential placements could be avoided every year (this has subsequently been updated to reflect the impact of Covid on residential numbers).
 - iii. There are opportunities to increase the efficiency and effectiveness of reablement services, enabling an additional 940 people a year to benefit from the service and more people to leave the service with lower ongoing levels of care. This could reduce demand on long term home care services by 16,000 hours per week.
 - iv. There are opportunities to improve decision-making by embedding multi-disciplinary approaches. The review found that decisions taken by a group of professionals, rather than by a single professional, are more likely to promote more independent outcomes and lower cost solutions. Implementing this change will require changes to the way the Council and its Health Partners work together.

- v. The recurrent annual benefits to social care, of implementing the changes recommended by the diagnostic review are worth £16.4m by 2024/25.
- 3.6 Since March, the Council has continued to work with Health Partners and Newton Europe during the Covid-19 pandemic period to improve system-wide data and analytics, work together on planning capacity to meet demand, and assess the performance of the health and social care system and identify priorities for improvement.
- 3.7 The latest evidence collected during this time shows:
- 28% of admissions to acute hospital settings for older people could have been avoided.
 - There remains an over-usage of residential care as a discharge pathway in some hospitals. In some hospitals, the proportion of people being discharged to residential care is higher than pre-Covid and is much higher than national guidance (5%) and benchmarks would suggest.
 - 33% of Reablement capacity could be freed-up, helping an additional 940 adults annually.
- 3.8 It is clear from the diagnostic review and subsequent work that improving outcomes and the effectiveness of the system requires focus on the following opportunity areas:
- a) **Hospital Discharge Decisions:** working with managers and practitioners to support them with the time, processes, data, systems and culture to deliver more independent outcomes for each and every person at the point of discharge.
 - b) **Intermediate Care at Home:** identify the opportunities to improve intermediate care at home by coordinating the scheduling, rostering, queuing theory, route mapping, data capture and recording of all practitioners. This will result in releasing capacity for additional starts into reablement to meet the increase in demand.
 - c) **Social Work Capacity & Decisions:** Use of system-wide data and insight to identify bottlenecks, fixes and implement a model of case progression across 300+ practitioners. This will facilitate up to a 30% increase in the number of assessments and reviews completed without the need for additional staffing capacity.
- 3.9 The Council have been informed by Newton Europe that the following benefits can be achieved:
- a) Increased capacity of the reablement team, allowing 900 to 1,200 additional referrals per year, and shifting existing referrals to the most effective services;
 - b) Enable 4,100 additional assessments and reviews per year;
 - c) Increase the effectiveness of the reablement team by 23%, thereby reducing the level of long-term care needs over time

- d) Improve long-term care decisions, with consistent, supportive processes embedded in teams, reducing 30% of homecare packages.
- 3.10 Additional opportunities for service improvements and savings were identified by Newton Europe across Health Partners, especially around admissions avoidance and improving/reducing unnecessary length of stays in hospital. Discussions are underway with Health Partners about those elements which are NHS-focused and would need to be NHS funded.
- 3.11 Once the design and implementation phase of the Transforming Community Care Programme have been finalised, the operational improvements are worth £22m-£34m per annum across the Health and Social Care system by year 4, including the benefits for social care already identified in paragraph 3.5v.
- 3.12 With the information that has been gathered from the review and work with Health Partners and Newton Europe, the Transforming Community Care programme are now able to move forward to a design and implementation phase to create a new system for Essex.
- 3.13 It is proposed that the Council appoint Newton Europe to assist with facilitating the design and implementation of the new system. Newton Europe will provide consultancy services to the Council (and Health Partners if required)
- 3.14 It is proposed that the contract would be awarded using the Bloom Framework for consultancy services to support the Council's Design and Implementation Phase, with the option to vary the scope of the works (up to and within a maximum value of £9M) to include that required by Health Partners should they wish to implement their design and implementation phases.
- 3.15 Newton Europe have worked in a number of different health and social care systems across the country and can bring lessons learned and expertise from this work to support the improvements in Essex.
- Since 2017, Newton have been working with the Birmingham health and social care system on the 'Early Intervention' programme. The overall objective was to design and deliver an integrated model of urgent and intermediate care that is person and carer centred and encompasses physical, mental health and social care needs that support older people before, during and following a crisis.
 - In Lancashire, after the transformation programme 80% more service users are receiving reablement within existing commissioned capacity & 15% more independent outcomes achieved for citizens from the improved reablement service.
- 3.16 ECC have been working with Newton on this programme of work for 12 months. The system knowledge, relationships and expertise that they have built up would be difficult for a new partner organisation to replicate without requiring the need to re-do a lot of the diagnostic and planning work, setting back system progress and creating substantial delays to the improvement of outcomes and significant cost implications to the programme of work that is required. Introducing a new supplier would also not have any of the established

relationships across the system, the success of which have been key to this work being delivered in a successful and timely way. For all these reasons, direct award is recommended.

- 3.17 Should NHS partner organisations wish to use Newton Europe's services, there will be a contractual mechanism for them to do so. The Council will need to enter into a contract with each organisation to detail the arrangements and payment for the required services. The terms of any such contract will be developed and a decision taken by the Cabinet Member for Adult Social Care and Health in relation to the content of the contract.

4 Options

- 4.1 **Do Nothing** The project is not progressed to the Design and Implementation Phase. There are no additional costs. However, the Council does not have capacity or the expertise to progress from the recommendations resulting from the Diagnostic Review undertaken by Newton Europe to realise the financial opportunities, improve outcomes for all residents or meet the increase in demand for Reablement services.
- 4.2 **Award a contract with Newton Europe, via Bloom to complete the Design and Implementation Phase. (Recommended)** Appointing Newton Europe to undertake the Design and Implementation phase will enable the project to progress the recommendations resulting from the Diagnostic Review which will enable the Council to work towards realising the financial identified opportunities identified by the Diagnostic Review. The Council and its Health Partners have been working with the core Newton Europe team for over 12 months and we have established relationships and local knowledge that would not be replicated by any other provider in the market. As we move into winter and possible further waves of COVID-19, starting again with an alternative provider would mean the loss of crucial time and resource as well as significant delay in the improvements and opportunities for improved outcomes and financial benefits. There is a cost and resource requirement in doing this which is outlined in the financial implications section of the document.
- 4.3 **Develop a wider specification and publish an open tender for the Design and Implementation phase.** This would give the opportunity to continue the design and implementation work but would have a cost implication, the procurement process would be resource intensive and the timelines lengthy. This option may also lead to a lack of consistency and the background learning and relationship building from the diagnostic review and planning phase will be lost.
- 4.4 **Recruit a specific workforce to design and implement without the support of an external programme partner.** This would give the opportunity to recruit a specific change programme workforce within our existing structure to design and implement the opportunities for savings and service improvement. This gives an opportunity for a sustainable solution, but the recruitment would be very labour intensive, we currently lack the range of the specific skill set

required to deliver this piece of work in the timescales. This would be a financially costly option and would not guarantee the delivery of the savings in any timescale.

5. Issues for Considerations

5.1 Financial Implications

5.1.1 ECC spends a significant share of its adult social care budget on providing care and support to older people. The 2020/21 budget is £251m gross (£88m net of income including grants). The Medium-Term Resource Strategy (MTRS) assumes inflationary and demographic pressures, while also relying on the delivery of savings to ensure that services are financially sustainable and providing best value for money. However, the impact of the COVID-19 pandemic has created significant uncertainty on the budgetary requirements in future years.

5.1.2 The gross cost of implementing the recommended option is £6m. This includes a fee of up to £4.8m (inclusive of expenses) payable to Newton Europe over 11 months for this transformation work programme, the estimated cost of the dedicated ECC resource necessary to deliver the expected benefits (£580,000), and the committed cost of a two-month contract extension (£570,000) agreed to ensure continuity of support for process design and system relationships in preparation for the transformation work.

5.1.3 The profile of expenditure is set out below and assumes an October 2020 start date for the transformation programme.

Description	2020/21	2021/22	Total
Transformation Programme Fee	£ 2.8m	£ 2.1m	£ 4.8m
Dedicated ECC Roles	£ 0.3m	£ 0.3m	£ 0.6m
Extend Current Support (committed)	£ 0.6m	-	£ 0.6m
Total Expenditure	£ 3.6m	£ 2.3m	£ 6.0m

Due to rounding, numbers presented do not add up precisely to the totals indicated.

5.1.4 The transformation programme will be delivered through a hybrid team made up of new or backfilled ECC staff (7 FTE), external partner resource from Newton, and supported by current system resource through existing roles. Newton do not charge per day of resource but through a fixed fee, as their delivery model is such that they will flex resource and prioritise different workstreams as required in order to deliver the result. However, the likely staffing model includes c. 25 Newton staff involved in the initial design phase (first 4-6 months) gradually reducing in the latter implementation phase as responsibility and skills transfer to ECC staff.

5.1.5 The scale of the financial opportunity identified in this programme of work is £16.4m annually (on a recurrent basis) to be fully realised over a 4-year period (spanning 5 financial years) through the reduction in long-term care packages. The profile of delivery is reflected below, as well as the profiling of the net benefit (recurrent savings less non-recurrent costs over the period).

Profile of Expected Benefits

Description	2020/21	2021/22	2022/23	2023/24	2024/25
Financial Benefit	(£0.3m)	(£5.8m)	(£14.0m)	(£16.2m)	(£16.4m)

Profile of Benefits, Net of Costs (in-year)

Description	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Financial Benefit (incremental)	(£0.3m)	(£5.5m)	(£8.2m)	(£2.2m)	(£0.2m)	(£16.4m)
Less Delivery Costs	£ 3.6m	£ 2.3m	-	-	-	£ 6.0m
Net Benefit	£ 3.3m	(£3.2m)	(£8.2m)	(£2.2m)	(£0.2m)	(£10.4m)

5.1.6 The net cost of £3.3m in 2020/21 will be funded by Adult Social Care through the proposed budget carry forward of £568,000 (allocated for on-going transformation) and with the balance through the overall Better Care Fund. The £2.3m cost falling in 2021/22 will be fully funded by a draw down from the transformation reserve, allowing the full programme benefits to contribute to the ASC savings programme in that year. The realised benefits from 2021/22 onwards will enable delivery of the £4.1m programme savings already committed in the MTRS (the profile of which is set out below) as well as mitigate future budgetary pressures.

Description	2020/21	2021/22	2022/23	2023/24	Total
Programme savings included in MTRS	-	(£0.9m)	(£1.7m)	(£1.5m)	(£4.1m)

5.1.7 Growth in reablement spend is assumed in the budget and MTRS in order to fulfil currently unmet and increasing demand for the service. Delivery of the programme benefits however is based on improved productivity and therefore no marginal cost in purchasing reablement services has been assumed to be required.

5.1.8 While the modelling of the financial opportunity does take account of expected post-COVID changes to the baseline level of demand for care, there is a level of uncertainty in these estimates which is a risk to the achievability of the stated financial benefits. Actual outputs and the measurement of benefits will be closely monitored to understand the implication of any discrepancies compared with original baseline assumptions. The benefit realisation methodology must be defined before the outset of the programme and agreed with the Section 151 Officer.

5.1.9 There is a financial risk that the benefits are not realised due to factors outside of the control of Newton Europe and therefore may not be protected by the Fee Guarantee. This could be internally, for example if insufficient workforce resource were provided by the Council to support the programme but could also be through factors outside of the direct control. This is particularly relevant now more than ever given the potential consequences of a second wave of the COVID-19 virus. Close monitoring of the outputs against the implementation and benefits profile (operational and financial) and clear, tight controls agreed at the outset of the contract will help ensure potential issues are recognised and acted upon as they arise.

5.2 Legal Implications

- 5.2.1 The contract for the provision of the Design and Implementation Phase relates to the provision of Consultancy services with a value in excess of £181,302, it must be procured in accordance with the provisions of the Public Contracts Regulations 2015.
- 5.2.2 Rather than using the Council's internal procurement function, the Council will instead instruct "Bloom" a procurement consultant to undertake the procurement on its behalf.
- 5.2.3 Bloom will conduct a procurement process compliant with the provisions of the Public Contracts Regulations 2015.
- 5.2.4 The contract awarded to Newton Europe shall be for the core Design and Implementation phase of the Council's Transforming Community Care Programme, but shall include the options to "add" additional workstreams required for Health Partners on a Partner by Partner basis. The contract will therefore have a maximum contract value which may not be exceeded without compliance with the Public Contracts Regulations 2015.
- 5.2.5 The Council will need to enter into contract with Health Partners to detail how Health Partners access the Newton Europe services for their requirements and how these shall be funded and paid.
- 5.2.6 Cabinet Members will need to be satisfied that the appointment of Newton Europe without a competitive process represents good value for money

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.

7 List of appendices

Equality impact assessment

8 List of Background papers

Diagnostic Phase Findings Publication

Forward Plan Ref No. FP/757/07/20

Report title: Decisions taken by or in consultation with Cabinet Members	
Report author: Secretary to the Cabinet	
Date: 15 September 2020	For: Information
Enquiries to: Emma Tombs, Democratic Services Manager, 03330 322709	
County Divisions affected: All Essex	

The following decisions have been taken by or in consultation with Cabinet Members since the last meeting of the Cabinet:

Leader of the Council

FP/767/07/20	Local Restrictions and Closure Powers: Delegation of Authority
FP/771/07/20	Drawdown from Transformation Reserve: Local Government Reform
FP/785/08/20	Counter Fraud & Anti-Bribery Strategy
FP/786/08/20	ECL Risk Management Framework
FP/796/08/20	Proposed Winding Up of North Essex Garden Communities Ltd and Local Delivery Vehicles

The following key decisions were taken urgently without being on the forward and were exempt from call in:

FP/782/08/20	Cessation of Temporary Traffic Management Measures – Brentwood Town Centre Covid-19 Response
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Deputy Leader & Cabinet Member for Infrastructure

FP/792/08/20	Sourcing Strategy for Major Schemes – Eastern Highways Alliance
FP/794/08/20	Concession Contract for an Electric Scooter Hire Trial Scheme
FP/795/08/20	Speed Limit on B1032 between Kirby Cross and Great Holland in Frinton and Walton
FP/798/09/20	Proposed No Waiting at Any Time restrictions, Willingale Road & Sandford Avenue, Loughton

FP/799/09/20 Proposed implementation of Zebra Crossing – B1352 Long Road, Lawford

The following decisions were exempt from call in:

FP/766/07/20 Temporary Traffic Regulation Order – Colchester Town Centre Covid-19 Traffic Management Measures

Cabinet Member for Children and Families

***FP/710/05/20** Housing Related Support for Young People aged 16+: Contract Extension

Cabinet Member for Education and Skills

FP/759/07/20 The Helena Romanes School, Dunmow – new Learning Village on site off Buttleys Lane and Stortford Road

FP/764/07/20 Forest Hall Academy Expansion from PAN 112 to PAN 130 for September 2020

FP/768/07/20 An expansion to Stebbing Primary School, to increase its capacity to 210 pupils (1fe) take additional pupils from September 2020.

FP/773/07/20 Appointment and Re-Appointment of School Governors by Essex LA - Schedule 348

FP/774/07/20 Appointment and Re-Appointment of School Governors by Essex LA - Schedule 349

***FP/754/07/20** Variation to a Section 106 Agreement relating to the Lawford Development, Tendring

FP/797/09/20 Appointment and Re-Appointment of School Governors by Essex LA - Schedule 350

Cabinet Member for Environment and Climate Change Action

FP/758/07/20 To approve an application to increase the scope of ECC's participation in the LECSEA project

Cabinet Member for Finance

FP/760/07/20	Drawdown from Transformation Reserve: Supporting the creation of a pan-Essex Development Viability Resource
FP/761/07/20	Colchester Institute Groundworks Training Centre
FP/769/07/20	Funding for Personal Protective Equipment resources
FP/783/08/20	Digital Connectivity Strategy for Essex
FP/787/08/20	Addition to the Fees & Charges policy – refunds
FP/791/08/20	Additional Temporary Staff – Transactional Services – Income Team
FP/801/09/20	Funding for Children and Families: COVID 19 Response

Cabinet Member for Health and Adult Social Care

FP/673/07/20	Extra Care – Approval to Award Procurement for Coppins Court
FP/772/07/20	Mid and South Essex Memorandum of Understanding

Total of decisions exempted from forward plan and call in: 1

Total of decisions exempted from call in: 1

*** Key Decisions**