

**Forward Plan reference: FP/678/04/20**

<b>Report title:</b> Establishment of a Provider Framework for Supported Living Care for Adults with Disabilities.	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Nick Presmeg, Executive Director, Adult Social Care	
<b>Date:</b> 26 May 2020	<b>For:</b> Decision
<b>Enquiries to:</b> Jess Stewart, Head of Commissioning Learning Disability and Autism, email: Jessica.stewart@essex.gov.uk	
<b>County Divisions affected:</b> All Essex	

## 1. Purpose of Report

- 1.1. The use of Supported Living services aligns with the Adult Social Care strategy to help people live more independent lives, moving away from traditional residential care settings. 'Supported living schemes' are where adults with disabilities live in their own home but with support close at hand. Adults must be able to choose where they live, who provides their support and how it is delivered. Services should be delivered in an enabling way to support adults to live more independently and reduce their reliance on formal support services.
- 1.2. This report seeks approval to establish a multi-supplier Framework for the provision of care and support services within Supported Living schemes to adults with disabilities in a way that is aligned with the Care Act and gives the adult choice.

## 2. Recommendations

- 2.1 Authorise the procurement of a four-year multi-supplier Supported-Living Framework agreement (the Framework) of providers of care and support services through an OJEU-compliant procurement process.
- 2.2 Authorise the Cabinet Member for Health and Adult Social Care to award the contracts to the successful providers, following completion of the procurement.
- 2.3 Agree that the Framework will operate on fixed hourly rates, initially £15.92 for standard placements and £17.80 for enhanced complex placements.
- 2.4 Agree that the Supported Living Framework can be re-opened to enable new providers to bid for inclusion on the Framework up to three times a year to increase choice for Adults within Essex.
- 2.5 Note the proposal that the Director, Commissioning, Adult Social Care may use their delegated authority to re-open the framework where it is proposed to without any changes and therefore no financial implications

- 2.6 Agree that the Director of Commissioning can authorise the use of a mini-competition to appoint a Care and Support Provider for a Supported Living Scheme where necessary.

### **3 Summary of issue**

#### **3.1 Background**

- 3.1.1 The Council currently supports 1,248 working-age people with disabilities in around 380 Supported Living schemes. The need for these types of services is increasing, particularly for young adults with high levels of need.
- 3.1.2 Supported Living schemes for Adults with Disabilities are defined by the Council as either:
- A cluster of single occupancy units grouped together either within a purpose-built block or within a defined area (such as a street) with an element of shared (core) support available to all residents; or
  - A shared house or bungalow in which tenants have their own bedroom, ideally with an en-suite bathroom, but with a communal kitchen, living/dining area. All properties are tenancy based, with the landlord being separate from the Care and Support provider.
- 3.1.3 To date the Council has made different arrangements for each Supported Living scheme, which has caused issues around consistency of hourly paid rates, quality selection criteria and performance management. There is currently no mechanism for sourcing providers for new schemes, except by a full procurement process which is not efficient.
- 3.1.4 The Council has in some cases subsidised the construction of specialist accommodation in order to ensure high quality provision. Where this has happened the Council has received nomination rights.

#### **3.2 Engagement**

**The Adults:** The new Supported Living service specification was co-produced with adults living in Supported Living and contains their views on what is important to them.

**The Market:** Engagement was carried out with 16 providers who make up 70% of the current Supported Living placements made by the Council. This was largely positive - 15 of the 16 confirming their intention to bid on the framework, confirming it would not hinder their ability to develop new units within Essex. This represents 65% of the current capacity in Essex. Wider Provider Forums were held - attended by 41 providers. No significant issues were raised around the Framework proposal.

## **4 Procurement**

4.1.1 The Supported Living market in Essex has grown rapidly over recent years and has overtaken residential services in terms of the number of placements being made. As the market has grown, the increase in the number of different arrangements for schemes makes it difficult for us to manage and it is harder to demonstrate best value.

4.1.2 An options appraisal examined how best to procure services. A framework agreement is the recommended option as it would, among other things:

- ensure consistent costs via a set hourly rate;
- ensure quality of providers;
- give adults with disabilities more choice and control.

The proposed call-off mechanism for making new placements on the framework is to allow the adult being placed to have a choice of all suitable available units subject to the accommodation/core provider being able to meet their needs. Specialist Accommodation Leads (SALs) would work with social workers to map the adult's needs and wishes and create a list of options from which the adult can view as many as they like before making their choice.

4.1.3 All placements on the framework will be made on fixed hourly rates applicable at the time of placement. Initially these will be £15.92 for standard placements and £17.80 for enhanced complex placements.

4.1.4 As the fixed rates are proposed for all new placements there is no need for bids to be assessed against cost criteria. Instead all bids will be evaluated on 100% quality, made up of the council's minimum standards, with additional criteria for providers looking to take on more complex placements. All providers will need a CQC rating of 'Good' or 'Outstanding' at the time of the tender or subsequent re-opening. Providers already on the framework that receive a CQC rating below this level will be obliged to complete an action plan before any further framework placement can be made with them.

4.1.5 A number of providers currently have higher rates than the proposed fixed rates. For these providers there remains a risk that they will not bid to be included on the framework. In order to mitigate this risk market engagement was carried out with key providers in order to ascertain their appetite to bid and 15 of the 16 spoken to stated they would apply to join the framework at the proposed rates, and that it would not hinder their ability to develop new units within Essex to meet demand. Further incentive for providers to come on to the framework will be commitment from the Council that, other than in exceptional circumstances, new placements will be made only through the framework and that those providers on the framework will develop improved strategic relationships with the Council.

4.1.6 Through the life of the framework the providers will be required to provide key performance indicators that will allow the Council to review their performance against the terms of the contract.

- 4.1.7 Every year the fixed rates will be reviewed, looking at the cost of care. A decision will be made to change the rate based on this. Any increased rate will apply to new and existing placements made via the framework. Rates which are over and above the set rates and do not fall within the provisions of the enhanced rates will not be uplifted.
- 4.1.8 It is proposed that the framework is procured for a total of four years from the date of commencement. All placements made through the framework will continue beyond the end of the framework and the individual placement agreements will not be terminated as a result of the framework ending or the Council moving on to a new commissioning and procurement model.
- 4.1.9 Procurement of the framework will be on a single stage basis with bidders required to complete the Standard Selection Questionnaire and additional quality questions. The bidders will need to provide details of all the accommodation that they are proposing to use. All accommodation proposed will need to meet the standards of the Council's Accommodation Planning Board (APB) process which will ensure the Council places only at high quality accommodation. New Accommodation can be added to the Framework at any time by providers that are on the Framework.
- 4.1.10 The framework may be re-opened up to three times a year. Once providers are on the framework, they will be encouraged to develop new accommodation and can do so at any time to allow the Council to develop the market and make new placements. This will follow the same APB process that is currently used by the Council. The Council will only place at services that have been on-boarded through the APB process.
- 4.1.11 Under the framework the Council may run a mini-competition process to:
- Make any placement of an adult into a supported living service,
  - Identify a new care provider for a scheme
- 4.1.12 Spot placement will only take place once all framework options are exhausted and a Service Manager has authorised the use of spot purchasing to meet an individual adult's assessed needs.
- 4.1.13 No number of placements will be guaranteed to be placed through the framework and the Council will not be bound to only utilise the framework for any placements.
- 4.1.14 The tender will be released within the 2020/21 financial year.

## **4.2 Payment of Core (Supported Living)**

- 4.2.1 The current method of paying core hours splits the cost across the number of tenants in a scheme. Each time this changes, the costs are re-apportioned across those living in the scheme and the provider must submit invoices for each adult's share of the core hours. This causes problems when changes

are made to the core services, as the provider invoices may not then match with what is commissioned on Mosaic (the Council's Social Care Case Management System), resulting in payment being held and allowing debts to build up.

- 4.2.2 The Council will continue developing an alternative approach that allows providers to be paid under a single invoice, removing the need for the hours to be re-apportioned on Mosaic before payment. The framework contract will be drafted to allow for changes to be made to the payment schedule in future.
- 4.2.3 It is proposed that only schemes that have been scheme reviewed by the Learning Disability and Autism Social Work teams and have been 'onboarded' through the APB will be eligible for payment by invoice. This will enable the Council to retain control over the amounts that are paid and will ensure that only schemes that meet quality standards are paid in this way.

## **5 Options**

### **5.1 Retaining the current model (not recommended)**

This would mean placements continuing to be purchased at the rate applying to the particular scheme. This will tend to be a more expensive, lower-quality option, and is not sustainable as a long-term solution.

### **5.2 Dynamic Purchasing System/Mini Competition (not recommended)**

This option is not recommended as it does not sufficiently promote choice and the cost and feasibility of a system to manage such a process was uncertain.

### **5.3 Supported Living Provider Framework (recommended option)**

This would enable consistent cost and quality, greater choice for Adults, while reducing their reliance on paid support. Providers on the Framework would have to meet the Council's quality standards and application requirements through KPIs and performance monitoring, thus improving outcomes for Adults.

## **6 Financial implications**

- 6.1.1 The total budget per annum for Adults with Disabilities living and receiving care in Supported Living placements for 2020/21 is **£66.4m**. This does not include any individual hours paid for by Direct Payments. This supports the 1,248 individuals and expected additions and changes in packages during the year.
- 6.1.2 There are no material financial implications directly associated with this decision as the providers are to accept the fixed rates per hour based on the cost of care for Supported Living as the Council determines each year.

Current rates are £15.92 or £17.80 per hour (depending on the complexities of the clients) and these are already contained within the 2020/21 budget. These rates will only apply to new and moved placements so there is an expectation that it will focus on the quality of placement. Recent procurements for spot placements of schemes have been set at these prices.

- 6.1.3 Work has been undertaken to develop criteria that can be applied to all supported living packages to identify those that would qualify for the enhanced complex rate of £17.80. Providers are required to apply for an increase in rates where they believe they should be paid at complex rates, and this process is ongoing. There is a risk that this ongoing work will have an impact on the total cost of the Supported Living budget if more clients (together with the provider) are deemed to fall within these criteria and we therefore pay higher rates for these clients' hours in future. The impact of this work will continue to be considered separately as it progresses.

## **7 Legal implications**

- 7.1 The Council has a duty under section 2 of the Care Act 2014 to provide or arrange for the provision of services, facilities or resources, or take other steps, which it considers will contribute towards preventing or delaying the development of increased needs for adults, and, where possible, reduce the needs for care and support of adults in its area. By procuring the services set out in this report, the Council will be taking steps to discharge its statutory duty under the Care Act 2014.
- 7.2 The proposed services are 'health, social and other specific services' set out in Schedule 3 of the Public Contracts Regulations 2015 (the Regulations). The procurement of these services is subject to the 'light touch' regime, as the value of the services exceeds the current financial threshold of £663,540. As a result, the procurement of care and support services within a Supported Living setting, is subject to the 'Light Touch Regime' or Section 7 of Chapter 3 of the Regulations.
- 7.3 The Regulations require the Council to publish its intention to award a contract for 'social and other specific services' by either Contract Notice or Prior Information Notice (subject to the conditions relating to the contents of both the Contract Notice or Prior Information Notice).

## **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 indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic. The procurement aims to improve choice and information, as well as quality of service for Adults with disability.

## 9 **List of appendices.**

Equality Impact Assessment

## 10 **List of Background papers**

None