

15 March 2023		ITEM: 19 Decision: 110651
Cabinet		
Commissioning Report – Domiciliary Care and Unpaid Carers		
Wards and communities affected: All	Key Decision: Key	
Report of: Cllr Deborah Arnold – Cabinet Member for Health and Adults Social Care		
Accountable Assistant Director: Ceri Armstrong – Interim Assistant Director Adult Social Care and Community Development		
Accountable Director: Les Billingham – Interim Director Adult Social Care and Community Development		
This report is Public		

Executive Summary

This report has been drafted in light of the current financial situation the Council faces. The challenges facing the Council during 2022 are well publicised and this report should be read in that context. Future service activity will need to reflect the intervention the Council finds itself in. Particularly difficult decisions will need to be made on levels of service and methods of service delivery during 2023 and beyond.

We are working to transform the way our services for people living at home are provided, ensuring that our offer is place based and person centred. This is expressed within chapter 8 of Thurrock’s Integrated Care Strategy for Adults ‘Further Case for Change’ (please see background reading for the weblink). This chapter details the new wellbeing model and the work currently being undertaken to review the effectiveness of this approach and the development of blended health and social care roles to minimise duplication and the continuity of care.

The majority of care is not provided by the Council. As agreed within the approvals for the approach within the Case for Change we want to take the learning from these internal pilots into our external commissioning of care and support. The current domiciliary care contracts end on the 31st of March 2023, the extension of the contract has been one widely discussed owing to the challenges of the pandemic, the current financial challenges of the Council and the strategic plan to transform care provision with people’s own homes. The decision has therefore been made to delay the retender of the contracts to facilitate the recovery of the still unstable market, ensuring the market is robust enough to work alongside the Council through

the remodelling of domiciliary care. We have also been waiting for the completed evaluation of the Well Being Team Pilot. The evaluation was delayed due to the pandemic and has just been finalised. We intend to use the outcomes and learning from the pilot to support the transformation of domiciliary care. The outcome we want to achieve is to remodel how care at home for people is provided. This has been outlined in the Strategic Direction detailed in the Better Care Together Thurrock; Further Case for Change, we want to create an integrated flexible and person-centred model which reflects:

- What the person can do for themselves.
- What informal networks can offer
- What 'service' response is required – ensuring that the response if required is flexible and joins up with other professionals

To achieve the above outcomes, we have 9 strategic actions detailed in Chapter 8 of the Case for Further Change. These actions include:

- Expanding our Council provision, Caring for Thurrock, to utilise the Wellbeing Team model
- Undertaking a wider evaluation of Wellbeing Teams to look at system benefits
- Working to shape the external market to deliver a wellbeing model
- Developing the wellbeing model into a blended team to deliver where required health and social care support
- Maximising community assets.

The approach within the Case for Change has been agreed Council wide and with partners and as such the delay in procuring domiciliary care allows and supports this transformational approach.

When the model has been developed and specifications completed, we will return to Cabinet to seek approval for procurement.

To enable us to deliver this strategic direction we are therefore seeking an extension to the following contracts

- Two contracted providers for Domiciliary Care
- Out of Hours Domiciliary Care support and
- The Bridging Service

Recognising the time transformation of this scale takes, we are recommending the extension of our domiciliary care contracts and out of hours contract. We want to ensure that when our 'support in the home' contracts are retendered, they reflect the model detailed within 'The Further Case for Change' noted above. Sufficient and significant work needs to have taken place with existing and potential new providers to ensure that the market is able to respond. Work to develop the existing domiciliary care model and to develop the existing market has been delayed significantly as a result of the recent Pandemic. The risk of not extending existing

current contracts is that the market will not be sufficiently stable prior to contracts being procured.

Given the Council's Section 114 status and the national and local economic uncertainty, we will manage the risk better by working with our current providers and maintaining our positive relationships with them. This will enable us to be in a position where we can deliver the transformation outlined within The Further Case for Change (Chapter 8). This approach will also help to maintain the stability of the care market – which is a duty under the Care Act 2014. In addition, the approach will enable us to meet the commitments contained within the Council's Improvement and Recovery Plan and to best control one of our key corporate risks - market stability. We are seeking an extension until April 2025 to ensure that the transformational work necessary to deliver a new model of support in the home can begin within a stable market.

The Bridging service is part of the Hospital discharge pathway and allows for timely discharge while individuals are waiting for care from a domiciliary care provider. The Bridging service supports people in their own homes, bridging the gap in service from discharge to support from a domiciliary care provider. We have a contract in place until September 2023 and would want to extend this until April 2024. We need to agree with partners the best model for hospital discharge in the future. We want to ensure that the people of Thurrock can be discharged from hospital whilst not having to experience multiple providers/carers in the care journey.

We are also in the middle of a significant transformation of the support provided to unpaid carers. We are seeking an extension to the contract for the Unpaid Carers Information Advice and Support Service. This contract extension is to enable us to test the viability of the carers service undertaking assessments on behalf of the Local Authority in response to carers feedback to have a consistent approach. The work was delayed as a result of the Pandemic, and we want this approach to be embedded within the service before we go out to tender. As such, we are seeking an extension until 31st March 2025. We are also developing a Carers Strategy and want to ensure this shapes the service we eventually procure.

Government Intervention and Section 114

In July 2022, the Council was made aware of concerns around the valuation of specific investments. A review process commenced, and the initial findings highlighted significant concern with three investments and the position was shared informally with the Department of Levelling Up, Housing and Communities (DLUHC). On the 2 September 2022 DLUHC announced directions to implement an intervention package at the Council.

The Secretary of State exercised his powers under section 15(11) of the Local Government Act 1999 to give a Direction without complying with the requirement at section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considered the failures of the Council's compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This was because of the following:

- the scale of the financial and commercial risks potentially facing the Authority, which were compounded by the Authority's approach to financial management and the seriousness of the allegations that were made by third parties about the processes applied to the operation of the Authority's commercial strategy, and;
- the failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they were taking to address the issues, taking account of the scale and pace of the response required.

The Secretary of State nominated Essex County Council to the role of Commissioner

On 19 December 2022, the Council's Acting Director of Finance & Section 151 Officer issued a report under Section 114 of the Local Government Finance Act 1988. This advises Councillors that the Council faces 'a financial situation of an extremely serious nature'.

Since that period the Council has continued to operate under the s114 Notice and is working alongside Commissioners to tighten its financial management procedures.

1. Recommendation(s)

1.1 That Cabinet agree the proposed two-year extension to the Domiciliary Care Service until 31 March 2025

1.2 That Cabinet agree the proposed 18-month extension to the Out of Hours service until 31 March 2025.

1.3 That Cabinet agree the 6-month extension to the Bridging Service until 31 March 2024: and

1.4 That Cabinet agree a 20-month extension to the Unpaid Carers Information Advice and Support service until 31 March 2025.

2. Introduction and Background

2.1 Domiciliary Care

2.2 Domiciliary care is the provision of individual care and support services within someone's own home delivered to meet identified outcomes to ensure that people have a good quality of life. Traditionally domiciliary care focuses on personal care. As described above the transformation of this provision is key part of our overall service transformation delivering a place-based wellbeing approach to living well at home. This is consistent with Thurrock's Integrated Care Strategy for Adults: 'The Case for Further Change'.

2.3 The service is demand led with the current two contracted providers delivering on average 3,135.26 hours a week. Our current hourly rate for external provision is £18.93.

- 2.4 The extension being proposed is for 2 years until 31st March 2025 the cost of that extension in total based on the average hours described above would be:

£6,172,498.86

The current contract has been in place since 2018 for 5 years at a total contract value of £16,402,473.54 meaning that the contract extension will not exceed 50% of the original contract price. The pandemic and current financial challenges have brought us within Regulation 72c under Public Contracts Regulations 2015. This is because the care market remains fragile and is still recovering to ask providers to tender at the present time would add pressure and detract from their ability to deliver services.

- 2.5 The Out of Hours service is provided by one of the contracted care agencies and delivers care through the night to provide personal care. This supports people to remain in their own homes rather than being placed in a residential care home.

- 2.6 The cost per annum for the out of hours service is £302,220 therefore for the proposed 2-year extension until 31st March 2025 the cost would be:

£604,440

The current contract has been in place since 2018 for 5 years at a total contract value of £1,511,100 meaning that the contract extension will not exceed 50% of the original contract price. The pandemic and current financial challenges have brought us within Regulation 72c under Public Contracts Regulations 2015. This is because the care market remains fragile and is still recovering to ask providers to tender at the present time would add pressure and detract from their ability to deliver services.

The value of the contracts for Domiciliary Care covered by the extension is therefore **£6,776,938.86** before any uplift is applied following the completion of the fee consultation exercise. The consultation with providers ended on the 25th February 2023 and the recommendations will be produced in a report by mid-March 2023 prior to the start of the new financial year. Any increase in uplift fees will be undertaken in consultation with the Commissioners and the Section 151 Officer.

The above value represents the maximum value of these contracts should providers work to maximum capacity and deliver the total hours contracted for. However, domiciliary care contracts rarely work in this way due to variations in capacity of staff over time. The total budget figure provided in the financial implications of this report constitutes the total value of the domiciliary care budget and includes a number of spot contract providers that enable fluctuations in capacity and demand to be managed within an overall budget envelope.

- 2.7 In addition to the above services, we will require an extension to the Bridging Service currently provided by Basildon and Thurrock University Hospital Trust (BTUH). The Bridging service allows for timely discharge while individuals are waiting for care from a domiciliary care agency. The bridging service supports people in their own homes, bridging the gap in service from discharge to support from a domiciliary care provider. It has been a hugely valuable service and is part of our hospital discharge process. We would require the service to remain in place until 31st March 2024.

Currently the service provides up to 200 hours of care a week at a cost of **£208,000** a year, the current contract has been in place since 1st April 2022.

The current contract is in place until 31st March 2023 with a waiver in place until the 30th September 2023 with funding committed to that point. We would therefore require an extension to the contract until 31 March 2024 to enable development of the new model of provision alongside the domiciliary care contracts. The funding required would be £104,000 so the contract extension will not exceed 50% of the original contract price. Health have not requested an uplift to the current price. The pandemic and current financial challenges have brought us within Regulation 72c under Public Contracts Regulations 2015. This is because the care market remains fragile and is still recovering to ask providers to tender at the present time would add pressure and detract from their ability to deliver services.

We are seeking agreement to a contract extension for Domiciliary Care, the Out of Hours Service and the Bridging Service until 31st March 2025. This will mean that the contract price, detailed above, will then exceed the Cabinet threshold. Procurement is supportive of this approach.

Commercially our approach compares very favourably when benchmarked across the Eastern Region, performance regarding hospital discharge shows that our domiciliary care offer, even with the 23/24 uplift is one of the lowest in the region. Therefore, value for money will not be impacted by this extension. As noted in the financial implications the funding for the provision of domiciliary care is within the base budget estimates. The contract costs have been included within the 2023/24 budget to meet the costs of the contracts at the levels outlined.

It is also important to note that any fee uplift to the contracts will form part of the conclusion of the consultation exercise for which additional growth funding has been allocated in the 2023/24 budget. A two-year extension is the most realistic approach giving an appropriate length of time for the modelling work to be undertaken.

2.8 **Thurrock Unpaid Carers Information Advice and Support Service**

- 2.9 The requirement for Carers services has increased significantly throughout the period of the pandemic and beyond and we want to maintain the stability and responsiveness of our local service. This service is being accessed by

many unpaid carers for the first time due to increased caring responsibilities this increase in carer numbers is also reflected nationally. Carers UK estimate that overnight, an additional 4.5 million people became unpaid carers in March 2020, meaning 1 in 4 (26%) UK adults were providing unpaid care to an older, disabled or ill relative or friend at the height of the pandemic. Carers' support was valued at £530 million per day during the pandemic, or £193 billion for a full year, more than the value of the NHS. Although we expect these numbers to decrease slightly, the numbers of unpaid carers have been rising significantly as the population ages. This assumption has been supported by the number of carers seeking support from our carers service, we have seen an increase of 100%. In Thurrock it is estimated that some 20,000 people are Carers. However, of these under 5% are known to public services and formally recognised and receiving carer support.

- 2.10 Thurrock Carers Service provides information, advice, and support to adult carers. This service is run by Thurrock and Brentwood MIND, a local mental health charity.

The Carers Service will also be carrying out carers assessments on behalf of the local authority, this has been put in place to ensure that carers have consistent support throughout their caring journey.

A one stop shop for cares is provided, along with peer support groups that many carers benefit from. There has been a significant increase in the number of carers seeking support post-pandemic, largely with carers self-identifying as having mental health issues as a result of their caring role.

The Carers service also work in partnership with our young carers service to manage the seamless transition of young carers becoming adult carers. The service co-ordinates awareness raising activities in Carers Week and on Carers Rights Day. Thurrock and Brentwood Mind are very active in accessing other forms of funding in addition to our contract, both charitable and donations from local businesses/organisations.

- 2.11 The current contract has been in place since 2018. We are proposing an extension for 20 months until 31st March 2025

Our current contract price for 2022/23 is £135,478, this price has been negotiated with the provider to remain at the current level and therefore for the period of the 20-month extension the cost would be.

£225,796.66

The current contract value is £709,903. The contract extension will not exceed 50% of the original contract price. The pandemic has brought us within Regulation 72c under Public Contracts Regulations 2015. This is because the care market remains fragile and is still recovering to ask providers to tender at the present time would add pressure and detract from their ability to deliver services.

2.12 To extend these contracts allows us to undertake our transformational work changing the delivery of support within people's own homes and the transfer of Carers Assessments to be undertaken by the Unpaid Carers Information Advice and Support Service.

3. Issues, Options and Analysis of Options

3.1 Domiciliary Care

3.2 The options are to procure the service which at this time would not be viable for the reasons stated:

- The requirement to transform services to ensure best value and best outcome as outlined in the Strategic Objectives in Chapter 8 of the Case for Change.
- The need to work in partnership with providers to develop a new transformational model of support
- The ongoing stability of the market and the need to mitigate the corporate risk associated with this

Or to extend the current contracts for Domiciliary Care and Out of Hours

3.3 Our preferred option is to extend the current contracts to allow for the transformational process to be completed changing how services are delivered to people in their own homes. This will be undertaken in partnership with our current providers and people who have lived experience of services. This will be beneficial for the Council longer term, meeting one of the key objectives within the Recovery and Improvement Plan developing a new locality-based operating model delivering more in collaboration with residents. It will also ensure market stability.

Prior to the close of the extension period, we will also need to begin the tender process to ensure that new contracts are in place for the 1st April 2025

3.4 Unpaid Carers Information Advice and Support Service

3.5 The options are to procure the service which would not be viable at this time for the reasons stated:

- The need to ensure that the transfer of carers assessments to the Carers Service is undertaken, at the request of carers to maintain a consistent approach for the Carers on their caring journey.
- To maintain the current contract price

Or to extend the current contracts to deliver the service changes ensuring we meet the identified needs of our increasing carers population.

- 3.6 Our preferred option is to extend the contract to maintain a consistent service, allow for the process to be developed for the Carers Service to undertake the carers assessments on behalf of the Local Authority and maintain the contractual price.

4. Reasons for Recommendation

- 4.1 There are three reasons for the recommendations.

To support a transformational approach to the delivery of support at home and the increased demand for carers services.

To ensure the stability of the Care Market as directed by the Care Act 2014.

To maintain the contract price in this time of unprecedented levels of inflation, subject only to any yearly percentage increases

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 Presented to Health and Well Being Overview and Scrutiny Committee on the 9th March 2023.

6. Impact on corporate policies, priorities, performance and community impact

The delivery of domiciliary care and carers services meet many corporate and community priorities. However, the commissioning of these services support Thurrock Council's 'People' priority in particular meeting the following two objectives contained within the People priority.

- high quality, consistent and accessible public services which are right first time
- communities are empowered to make choices and be safer and stronger together

7. Implications

7.1 Financial

Implications verified by: **Mike Jones**
Strategic Lead – Corporate Finance

The level of funding required for the three extensions is included as part of the 2023/24 base budget estimates. These services are required to stabilise the market, deliver best value and allow for a transformational approach, and are essential for the successful delivery of clients receiving care services.

The value detailed in para 2.5 represents the largest of the Council external homecare contractors. The full budget allocation for all homecare services is detailed in the table below:

Service	Client Group	2022/23	2022/23	2023/24
		Base Budget	Revised Forecast	Base Budget
		£000's	£000's	£000's
Home Care	Older People	4,344	6,456	7,070
Bridging Service	Older People	216	323	216
Home Care	Learning Disabilities	75	99	106
Home Care	Mental Health	100	103	145
Home Care	Physical Disabilities	270	789	873
Grand Total		5,005	7,770	8,411

The 2023/24 draft budget has been formulated to take into consideration that full year effect of the residents receiving a service within the relevant care provisions. This is included within the Draft 2023/24 Budget report to Cabinet on 22 February 2022.

There has been a significant increase in demand for Homecare services, coupled with an increased level of care needs for people being discharge from hospital requiring continuing social care support to live independently outside of residential care. This has been exacerbated by the change in the hospital discharge criterion from 'medically fit' to 'medically optimised' meaning patients are discharged earlier and with a greater level of care acuity.

Due the financial year, there has been an increase in complexity and the associated requirement for additional level of care support to existing clients. This has been prevalent in the substantial increase in the number of homecare packages that the Local Authority is commissioning within the external care market

The longer term ramifications following the covid pandemic including the pausing by the NHS of secondary prevention programmes to manage residents with long-term conditions that is now resulting in significantly increased presentation of very unwell patients presenting at A&E for emergency hospital and the subsequent demand on ASC through increased hospital backdoor pressures. Along with the "hidden" impacts of COVID amongst both working age adults and older people caused by the lockdown and removal of non-crisis intervention by health. This is particularly prevalent in Mental Health services.

Within the 2023/24 draft budget, the Council identified the £3.406m gross expenditure growth requirement, and the budget for 2023/24 has been rebased accordingly.

Furthermore, an additional £1.090m of specific grant fund has been awarded in the local government finance settlement through the ASC market sustainability and improvement fund. In line with the guidance, this funding will be used to fund additional financial support to the external care market in 2023/24.

At this stage, the budget detailed in the above table does not include any inflationary price uplifts for 2023/24. This is currently under discussion as part of the consultation with external care providers, which will take into consideration national living wage, general inflation as well as recruitment and retention pressures within the care sector. Funding has been identified in the 2023/24 draft budget and will be allocated upon conclusion of the consultation. This consultation forms part of the annual budget setting processes each year, and is subject to the economic considerations, which will vary over the life of the contracts, and form part of the Councils MTFs.

The recommendation to extend the existing contracts has been deemed as the most cost-effective option at the moment. The 2022/23 and 2023/24 base budgets have been set in accordance with this approach, and outside of the application of inflationary price uplifts, the approval of the recommendation will not have an adverse financial impact on the proposed budget, and conversely, provides certainty over the charges which the Council will pay on the current contracts.

Any re-tendering of the contacts for the financial year 2024/25 will be considered as part of the following years budget setting process, and will be included as part of the base budget setting estimates

It should also be noted that the costs quoted in the report vary accordingly to the length of the contract extension which is being proposed.

Funding has been identified in the 2023/24 budget for the out of hours service and bridging service and unpaid carers information advice and Support Service detailed in Paragraphs 2.7, 2.8 and 2.13

Therefore, the financial implications of the report are contained within identified resources and will not add additional cost pressures.

7.2 **Legal**

Implications verified by: **Kevin Molloy**
Principal Solicitor - Legal

The services required under all of the contracts listed above are required as a statutory duty under the Care Act 2014 and the Care Act also directs that Local Authorities have a duty to maintain a stable Care Market. Following issue by the Council of a s114 notice the Council must ensure that its resources are not used for non-essential spending. I am satisfied that the contracts at issue here are all essential and the provision of them a statutory duty.

Procurement regulations allow for extensions in specific circumstances with Cabinet agreement. Under Public Contracts Regulations 2015: Regulation 72 under point C the Council may extend a public contract where

all of the following conditions are fulfilled: —

(i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen.

(ii) the modification does not alter the overall nature of the contract.

(iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement

It is contended that the Council could not have foreseen the Pandemic or the current financial challenges facing Thurrock Council which have flowed from that and which are detailed further in this report, the extensions do not alter the overall nature of the contract and in each case the increase does not exceed 50% of the overall contract value. As such, the Council should be in a reasonable position to defend any challenge to its use of Regulation 72. The Council's own requirements to comply with clause 14 of the Council's Procurement Rules will also need to be met.

The report author and responsible directorate are advised to keep Legal Services fully informed at every stage of the proposed variations and tender exercises. Legal Services are on hand and available to assist and answer any questions that may arise.

7.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
Team Manager Community Development and Equalities

By extending these services we are seeking to support some of the most vulnerable in society to receive services to enable them to live at home and have a choice to do so.

The Carers services support unpaid carers who are one of societies most valuable resources and carers need to have their rights protected and their voice heard.

We are also enabling a stable and consistent service to be delivered within a very fragile market.

- 7.4 **Other implications** (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

N/A

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

[Thurrock Council - Better Care Together Thurrock: The Case for Further Change](#)

9. **Appendices to the report**

- N/A

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