

<b>Cabinet Member for Adults and Health</b>	<b>Ref No:</b> AH11 19/20
<b>Date: January 2020</b>	<b>Key Decision:</b> Yes
<b>Supporting People in their own home – Commissioning of Care and Support at Home</b>	<b>Part I</b>
<b>Report by Executive Director of Adults and Health</b>	<b>Electoral Division(s): All</b>

### **Summary:**

Care and support at home services (also known as domiciliary care or home care) are currently commissioned through two contract frameworks. The proposal is to replace these frameworks with a recommissioned provision of care and support at home which will;

- support delivery of the adults social care vision and strategy,
- replace current contract arrangements with new arrangements in place in January 2021.
- support the management of challenges in recruitment, retention, and countywide coverage, and support sustainability,
- reflect the outcome of the consultation and engagement undertaken during 2019, and
- to enable the Council to meet the care and support needs of residents who have been assessed as having eligible social care needs in line with the Care Act 2014.

The proposal for the new commissioning arrangements includes a focus on strengths based and outcome focused services with a more localised and community focused approach which reflects and complements the adult social care community led support practice being implemented across the county.

### **West Sussex Plan: Policy Impact and Context**

#### Independence for Later Life:

Care and support at home services are key to the delivery of the West Sussex Plan, particularly around the aims and priorities within 'Independence for Later life' as identified below:

- A good place to grow old
- Older people feel safe and secure
- Older people have opportunities to thrive
- People are healthy and well
- Older people feel part of their community

In addition, services will be commissioned to work in the communities of West Sussex, and so support the local economy with recruitment of a strong local workforce.

## **Financial Impact**

Current spend on care and support at home is around £28m per annum. This is expected to increase as a result of the recommissioning. The impact of this will be managed by prioritising care and support at home when the funding that will be available in the 2020/21 and 2021/22 budgets for paying uplifts to care providers are being allocated.

## **Recommendation**

The Cabinet Member for Adults and Health is asked to approve the commencement of a procurement for care and support at home services, with contracting arrangements to commence from January 2021 and to delegate authority for approval for contract award and any subsequent decisions and awards relating to these contracting arrangements to the Executive Director of Adults and Health.

## **Proposal**

### **1. Background and Context**

- 1.1. The adult social care vision and strategy is to support people to live healthy and independent lives, to support people as they grow older in West Sussex to prevent and to delay them developing social care needs. The vision and strategy explains that this will be achieved by, for example supporting people at an early stage and putting in place a community led model of support. Care and support at home services (also known as domiciliary care or home care) are the largest proportion of non-residential services that the Council purchases for older people. The Council commissions care and support at home from two framework contracts. There are currently 25 providers on the care and support at home framework agreement 2015, delivering services to 72% of the 2065 customers who have assessed eligible social care needs and have requested that the Council purchase services on their behalf through a Council managed budget (CMB). There is also currently in place a pre-existing framework agreement for the spot purchase of care and support at home through which around 50 additional providers deliver services to 28% of the total CMB customers.
- 1.2. The 2015 framework has been extended until January 2021 at which point the framework will terminate. Alternative contractual arrangements are required to replace this framework. Whilst there is no specific end date for the pre-existing framework agreement it is recognised to be out of date and requiring replacement and so will therefore terminate at the same time. Thus, all legacy contract arrangements for the provision of care and support at home will cease and will be replaced by new arrangements. This will mean that all providers wanting to continue or to commence working with the Council to provide services to customers will be required to engage with the new arrangements through the procurement process outlined in section 2.9 of this report.
- 1.3. There are a number of challenges with the commissioning of care and support at home. These include:

### **1.3.1. Capacity to meet demand**

Demand for services is increasing. This is a result of a combination of factors which include population changes resulting in higher proportions of older people, higher numbers of people living with long term conditions and strategic and policy changes resulting in a vision to support more people in their own home for longer. The numbers of people supported receiving Council funding for non-residential services increased from 2253 in December 2017 to 2411 in December 2019. The vast majority of these people are in receipt of care and support at home.

### **1.3.2. Commissioned services** have supported increase in demand across both frameworks, but this has been challenging for providers to accommodate and consistently there are customers waiting for a service or solution to be put in place, which are unable to be accommodated as swiftly as the Council would like.

### **1.3.3. Recruitment and Retention**

Very closely linked to the capacity to meet demand is the challenge to recruit enough care workers in order to grow services. In August 2019, providers attending an engagement session confirmed that staff and recruitment remains the biggest challenge and is caused by a combination of factors including low unemployment levels, competition from other industries, high cost of house prices, perception of care and negative publicity.

### **1.3.4 The 2018/19 Skills for Care report, 'Domiciliary care services in the adult social care sector' confirms turnover for domiciliary care services across England was 38.8% compared for example to care homes with nursing services at 31.5% and with a vacancy rate of 10.6% compared to average across all services of 7.8%. <sup>1</sup> confirming that this is an issue experienced much wider than West Sussex.**

### **1.3.5 Increasing costs**

Providers have experienced numerous increasing cost pressures in recent years including National Living Wage (NLW) pension costs, increased travel costs, and registration cost structure changes. Although the Council has increased both framework rates by at least 13% since 2015, this has been insufficient to continuously secure the volume of service that has been required.

### **1.3.6 Consistent coverage across the County**

Having a significant rural and semi-rural profile presents an additional challenge to care and support at home providers in the delivery of services and to the Council in meeting its Care Act 2014 duty to ensure sufficient supply of a range of quality services. The numbers of customers in rural areas is significantly smaller than in more densely populated areas. This increases the distance between customers and therefore the cost of delivery and potentially also the viability of services delivering in these areas. This

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<sup>1</sup> Skills for Care: Domiciliary care services in the adult social care sector 2018/19, available at: <https://www.skillsforcare.org.uk/adult-social-care-workforce-data/Workforce-intelligence/documents/State-of-the-adult-social-care-sector/Summary-of-domiciliary-care-services-2019.pdf>

often deters providers from delivering or being able to recruit in these areas therefore limiting the coverage and availability of services.

- 1.3.7 In light of these issues, the Council has been consulting on how these challenges can be overcome and services commissioned in a different way which meets the Council's adult social care vision and strategy.

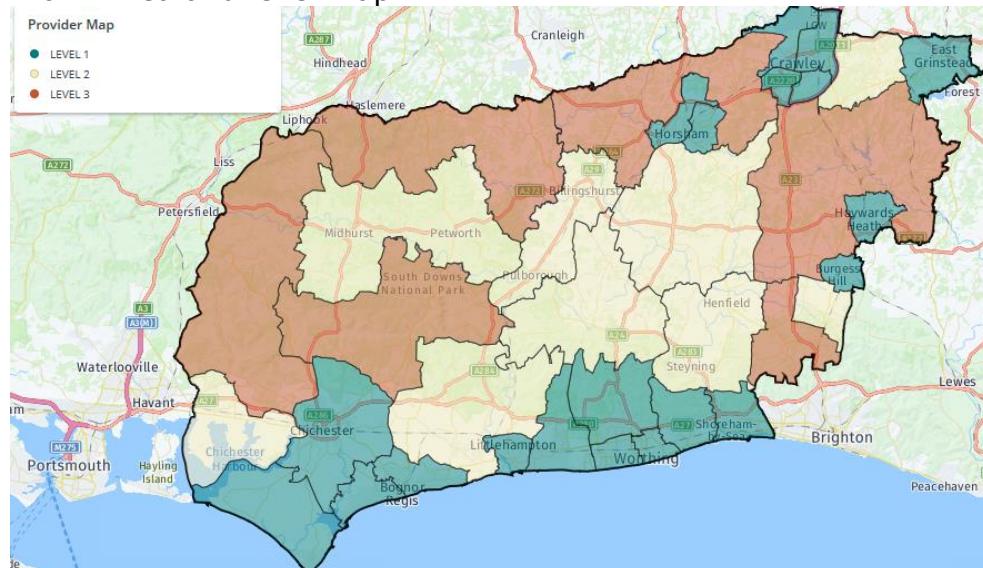
## **2 Proposal Details**

- 2.1 The Council is currently expanding the development of community led support across adults' services teams. This approach enables people to be supported at an earlier stage, to prevent deterioration and avoid crises. Where people do have eligible social care needs as identified through a Care Act 2014 social care assessment the Council will develop solutions building on both the customer's and the communities' strengths and assets. Care and support at home will be one option to support people with eligible social care needs, although will be considered alongside many other potential solutions.
- 2.2 In order to work in this way, the Council is exploring existing options and solutions for people and identifying any requirements for development. Care and support at home is a vital service and solution to enable people to live in their own home, but it is limited in its ability to deliver consistently across the whole county as well as deliver the full capacity required by the Council and it is increasing in cost. The priority, initially but not exclusively, will be to work with rural communities and residents to explore the solutions and strengths within those communities and to identify areas for further development. Alternatives may also be required in more densely populated areas where demand is high. The areas of initial priority are anticipated to be those identified as level 3 in the map in 2.6.
- 2.3 The aim will be to use a range of options from social support, community services, neighbourhood services, domestic support, as well as personal care provision in a range of formats. These may be provided and delivered by a range of services and organisations, including voluntary and community sector services, family and friend networks, and private organisations. Some investment may be required for alternatives to establish, and business cases will be developed accordingly.
- 2.4 In addition to a focus on prevention, there will also be a requirement to focus on supporting people following a period of illness or injury to enable them to re-learn skills as well as regain confidence. Many people who are supported by the Council's commissioned community reablement service require no ongoing care as a result of the focused interventions of this service. Currently a very small proportion of the reablement service is focused on people within the community. The majority of customers are referred to the service following a hospital stay. Maximising the reablement service offer is anticipated to have a positive impact on managing the increasing demand for long term care, provided both within the persons own home or in a residential service.

## 2.5 Proposed Procurement

- 2.5.1 The procurement of care and support at home services will commence with an overarching contractual framework which all service providers will be encouraged to bid for. Providers wishing to do business with any level of volume of work for the Council will be required to join the framework and satisfy initial assessment criteria relating to financial standing and an appropriate level of organisational standards.
- 2.5.2 As part of the procurement, two providers (a primary and secondary) will be then sought to deliver in each level 1 area. These areas have significant levels of demand and reflect around 85% of the Council's business. Two providers are sought in order to enable contingency in these high volume areas, whilst providing volumes to enable sustainable business models.
- 2.5.3 In addition, a single provider will then be sought to deliver in each level 2 area. These areas have less demand and reflect around 13% of the Council's business. Historically they can be more challenging areas to sustain business within and hence the proposal is to offer a minimum guarantee of block hours in these areas to enable providers to be assured of a level of business to support sustainability in these areas and continuity for customers. Contingency in these areas will be from the wider contractual framework.
- 2.5.4 Whilst level 3 presents a significant proportion of the geography of the County, it represents only around 2% of the Council's CMB business. The proposal for these areas is that they will not have a lead provider or providers. Services required in these areas will be sought from the wider contractual framework. These areas will be the focus for consideration of wider options and different models of support. This will potentially include consideration of personal assistant models, live in provision, shared lives and micro provision.
- 2.5.5 Where the Council is unable to source appropriate providers for referrals via the above provision, the overarching contractual framework of qualified providers will be used as a reserve pool, with packages awarded via mini competition akin to a dynamic purchasing system (DPS.)

## 2.6 Area and level map



## 2.7 Systems and Pricing

- 2.7.1 The Council's systems for making payment to providers require updating to enable better use of technology and an improved interface with the Council's IT systems. The proposal is to introduce a provider portal which will enable providers to input service delivery directly into the Council's system to deliver swift and efficient payments and reduce administration.
- 2.7.2 The Council has engaged with service providers on a range of different payment model options with the aim of improving outcomes for customers and enabling flexibility and assurance. There was insufficient evidence to enable confidence of the benefits of a widespread change in the payment mechanisms. However, the Council would like to explore trials of different models with interested providers in order to learn from opportunities to change the traditional payment models the Council currently operates which focus on time delivered rather than outcomes achieved.
- 2.7.3 To avoid disruption for existing customers and existing service providers, the proposal is that where possible customers will continue to be supported by their current provider if this is their wish. However, it will be a requirement that all providers supporting existing and or new customers will be contracted with the Council through the new framework arrangements, either in a primary, secondary or reserve capacity.

### **Factors taken into account**

## **3 Consultation**

- 3.1 On the 13<sup>th</sup> May 2019 all current and interested service providers were invited to a market engagement day which included 4 workshops focused on costs, outcomes, rural coverage and workforce. Following this event, a second meeting was held with a range of providers with experience in other areas in order to explore learning. The information from these two workshops was used to develop the initial proposals. The proposals were presented at a third market engagement event on the 7<sup>th</sup> August 2019, where service providers had the opportunity to ask questions about the proposals.
- 3.2 Following the third market engagement event, surveys were sent to providers to request further feedback on the proposals and to request information and opinions about the opportunity to change payment models to respond to requests for greater assurance and to move more towards an outcome based focus.
- 3.3 Unfortunately there was an insufficient number of responses for them to be considered as representative of the whole market. However the majority (62% of 13 responses) felt that the areas were the right sizes, and whilst not all providers agreed they would be viable, feedback was that clarity would be required on the numbers of areas that providers could bid for and be awarded, which does impact on viability. This is being developed as part of the procurement process, taking account of the risks raised by the market.
- 3.4 In addition, and in response to the payment models, the majority (58% of 12 responses) prefer to be paid on actuals as opposed to a suggested option of rightsizing for 12 weeks. There was a theme throughout the responses about

the inability to reduce costs due to market pressures, challenges with recruiting and retaining staff and the high cost of living in the South of England.

- 3.5 As a result of the feedback, the Council does not have sufficient evidence to suggest that a different model of payment would enable additional benefits to the outcomes of the service being provided. Therefore, the traditional payment model of payment for actual service provided will continue. However, the Council is keen to work with providers to move forward with different payment models over the course of the new contract, and will look for opportunities alongside the implementation of the new commissioned arrangements to trial and test different approaches that will deliver better outcomes both for customers and for the health and social care system as well as reflecting the challenges for customers. The Council will work with the successful primary providers to undertake trials designed to capture evidence on the benefits of different payment models, including for example, rightsizing, individual service funds, gain share and outcome based payments.
- 3.6 In light of the feedback from the market on increasing costs, the procurement will stress that providers should submit a rate that is sustainable and viable taking account of these cost pressures. The Council's financial position is extremely challenging and currently the range of rates paid for services currently is substantial. Therefore, cost will be a high proportion of the scoring for the procurement.
- 3.7 A care workforce survey was published in May 2019 to hear the views of those working in domiciliary care. 60 people responded to the survey. Some of the key findings included;
- 60% worked in care as it was a rewarding job which they enjoyed and all agreed they were valued by the people they supported and worked with,
  - Over 90% felt suitably trained and equipped to do the job and had support from their line manager and colleagues, and
  - Around 35% of respondents did not feel they had sufficient time to travel from one care call to the next within the scheduled time.
  - 35% did not feel they were paid at a fair level for their work.
  - 13% had some concerns about being able to meet care needs within the call time
- 3.8 The survey also included questions about what was most important to them in being employed within the care industry. The following factors were considered the most important by care workers:
- Being able to make a difference to people's lives
  - Receiving high quality training and increasing skills and competencies
  - Being able to achieve tasks for people within scheduled time and
  - Being valued by their employer and colleagues.
- 3.9 Individual interviews and focus groups were completed in the summer of 2019 with 27 people. Feedback included:
- Some of the most important aspects of care and support in a person's own home include support being arranged quickly, time spent with

- customers and when the visits take place, reliability of visits, flexibility, communication, social aspects and practical help offered, and
  - Some suggestions for improvements included; training for care workers, informing the worker about the care needed, and flexibility of care provided.
- 3.10 In addition, a letter was sent to all customers who receive the current care and support at home service to invite them to complete a survey regarding the new proposals. The survey asked for responses to specific proposals which were outlined in the consultation document (see background papers.) 151 people responded to the survey, 27% of these were from West Sussex residents, 37% were from family or friend carers and 18% were from service users.
- 3.11 Some of the key findings from the survey were;
- 76% agreed or strongly agreed with having a strengths based approach to supporting people.
  - 87% agreed or strongly agreed with having outcome based services.
  - 75% agreed or strongly agreed with a place based structure with localised arrangements.
- 3.12 The feedback from all of the consultation and engagement has been extremely valuable. It has been used to develop the proposals and is now also being used to shape the procurement process and the service specification.

## **4 Financial (revenue and capital) and Resource Implications**

### **4.1 Revenue consequences of proposal**

- 4.1.1 The current spend on care and support at home services per annum is circa £28m. This is bought in markets where competition tends to be high, partly because of buoyant demand from people who are self-funders, and in rural areas where supply is often limited. Allied to factors like the National Living Wage, which Government intends to rise from £8.72 per hour to £10.50 by April 2024, together with the potential impact of Brexit on the availability of EU nationals to work in care as well as the likelihood that the reprocurement will result in an increase in costs greater than a simple inflationary change.
- 4.1.2 The extent of this will not be known until the tender process has been completed. The option to manage costs by reducing volumes would be a false economy because of the pivotal role that care and support at home has to play in delivering the Council's independence priorities, which, in turn, are fundamental to making the adult social care budget more financially sustainable. To assess the potential implications, scenario planning has taken place at various levels of increase, for which these resources will be available:
- The funding that will be included in the 2020/21 budget in order to pay uplifts to providers across all of the markets where care is purchased. This amounts to £5.9m and consists of elements both for inflation and to recognise the growth in the National Living Wage from April.

Although the new care and support at home contracts will not commence until January 2021, one option would be to pre-empt the outcome of the reprocurement and agree an increase from April 2020 that will reduce the impact on the 2021/22 budget. This would also create an advantage in terms of helping stabilise the market in the short term.

- The uplift funding that be provided in the 2021/22 budget. (NB the new contracts will allow for an annual increase in rates from April 2022, so thereafter decisions will become subject to the Council's usual process for agreeing provider uplifts.)

- 4.1.3 Amongst other considerations, the scenario analysis took into account that the Council's current average standard hourly rate on the 2015 framework is £20.65 and the UK Home Care Association's recommended minimum hourly cost of care for 2020/21 of £20.69. Based on that work, leaving resolution of the situation to 2021/22 would be too significant a risk because of the knock-on consequences for providers operating outside of care and support at home. Therefore, as part of the decision report on uplifts for 2020/21, which will be taken in February, resources will be prioritised towards care and support at home so that a real term increase in price, i.e. one over and above inflation, can be afforded. The balance of any rise in costs from the reprocurement will then become a first call on the uplift funding in the 2021/22 budget. In combination approximately £10m is expected to be available through those sources, which will make the outcome affordable even at the most pessimistic levels of increase that are anticipated.
- 4.1.4 The Council's adult social care vision and strategy is to support people to remain independent at home for as long as possible. Hence these services and other prevention services are crucial to avoiding and delaying people having to move to residential care provision. Consequently, as a linked part of its mitigation planning the Council is looking at other areas of social care that will have an impact on the management of demand for longer term care services. Providing prevention services, exploring opportunities for meeting needs in creative ways and exploring and maximising the potential of reablement are anticipated to support management of the overall demand for more formal care services.
- 4.1.5 The Council is also keen to work with providers on opportunities to manage costs through focus of the service provision on outcomes and reabling approaches. As a result, the Council will explore opportunities that may have a mutual financial benefit for service providers and the Council as identified in 3.5.

## **4.2 Human Resources, IT and Assets Impact**

- 4.2.1 The impact of human resources internally is on management of the procurement which will include procurement, commissioning, legal, finance, contracts and adults operations, and on the subsequent contract management as well as quality and performance monitoring. The procurement is currently being planned to commence early in 2020 to secure services which support adult operations to discharge the statutory duty to provide care to meet residents eligible care needs.

4.2.2 The Council is looking to update the payment processes to improve efficiency of the process both for providers and or the Council. This has an IT impact and is being managed through a separate but interconnected work on a provider portal.

## **5 Legal Implications**

- 5.1 The Council has a statutory duty under the Care Act to meet the assessed eligible social care needs of residents of West Sussex. The commissioning of care and support at home services enables the Council to purchase personal care services for people with eligible social care needs in order to discharge this duty.
- 5.2 The value of this procurement is considered a Key Decision as it will result in the Council incurring expenditure which is significant as decided by the Council. In accordance with its constitution, this is expenditure over £500k and it is significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in West Sussex. A Key Decision must be published in the Council's Forward Plan at least 28 days before it is made and will be subject to a 10 day call-in period after it has been made. The decision must be made by the cabinet member for Adults and Health.
- 5.3 The Council is a Contracting Authority as defined in the Public Contract Regulations 2015 ("PCR") and as such is governed by those regulations. The value of the proposed contract will be up to £28m per year over 4 years with the facility to extend for period or periods of up to 3 years.
- 5.4 The value of the proposed contract is therefore above the relevant EU Thresholds as referred to in the PCR of £615,278 for Social and other specific Services ("Light Touch Services").
- 5.5 As such the Council will competitively tender these services in accordance with the procedures set out in PCR.
- 5.6 The Council will enter into a services contract using terms and conditions, approved by Commercial Legal Services and compliant with section 10 of the Council's Standing Orders on Procurement and Contracts.
- 5.7 The Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") is not considered to apply to these services either on the commencement of the contract or on its expiry as the new contract will not include existing packages of care. However, this will be reviewed throughout the process and if TUPE is deemed to apply, the Council has adequate contractual provisions in place in the existing contract to facilitate the transfer of relevant information between the outgoing and incoming provider above and beyond the statutory provisions which should ensure a smooth transfer of service.
- 5.8 There is no risk that this contract will be considered illegal State Aid because the contract will be subject to a competitive tender thereby ensuring that the Council is not selectively granting an advantage to one particular economic operator over another.

## 6 Risk Implications and Mitigations

Risk	Mitigating Action (in place or planned)
Insufficient capacity within the services to meet the needs of residents of West Sussex	<p>Development of alternative models of care and support provision in communities where capacity is limited.</p> <p>Continued engagement with the market, including a production of a market position statement to identify our intentions to the market to support development.</p> <p>Support for the care market through the Proud to Care campaigns, website and provider support.</p>
Increasing costs of services	<p>Development of alternative models of care.</p> <p>Community led, preventative and reabling support focus to enable demand management for long term care.</p> <p>Current main framework enables providers to consider submitting request for increase of rates based on changing market factors and unforeseen costs.</p> <p>Development of outcome-based payment arrangements</p>
Insufficient coverage across the County	<p>Production of the market position statement to give information to providers about areas the Council would like to focus development in.</p> <p>Exploring development of alternative arrangements in rural areas. Separate areas will have the potential to cost separately in order to ensure that bidders are able to consider the cost of delivering in more rural areas.</p> <p>Proportion of guaranteed hours within level 2 rural areas.</p>
Providers not bidding for the opportunity leading to the inability to award.	Initial provider engagement has been used to develop proposals which reflect the requirements and abilities of the market.

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
	<p>Blocks for level 2 to promote attractiveness of the opportunity and to ensure providers have a contingency and assurance of a level of business.</p> <p>The procurement will be advertised in line with Standing orders for procurement and contracts and will be sent by email to all existing providers in West Sussex.</p>
Risk of provider failure impacting on services available to customers	<p>Resource will be required to ensure appropriate levels of contract management, performance monitoring and quality assurance.</p> <p>Implementation of a secondary provider in large densely populated areas to enable contingency for failure of a primary provider.</p> <p>The wider framework will remain open to enable providers to join the reserve at any time. Reserve providers will form a contingency for provider failure.</p> <p>Monitoring of financial due diligence of providers with high volumes, high risk or high impact of provider failure.</p>
Prioritisation of uplift funding towards care and support at home in 2020/21 and 2021/22 will weaken the Council's position in other markets where it buys care	<p>Development of alternative models of care to reduce demand for residential placements.</p> <p>Community led, preventative and reabling support focus to enable demand management for long term care.</p>

## **7 Other Options Considered (and reasons for not proposing)**

- 7.1 Other options for the commissioning of these services included continuation of the existing arrangements. There are continuing challenges with capacity which can't be met under the current arrangements meaning this option has been discounted. In addition, the arrangements come to an end in January 2021 hence a continuation would be outside of the contractual terms.
- 7.2 A further option was to commission services on wider geographic boundaries which reflects the current model. The wide boundaries currently in place leave extensive areas where providers will not cover. This leaves parts of West Sussex with limited coverage and has an inequitable impact on customers in rural areas. The proposed boundaries accommodate for smaller geographic areas in order to ensure better coverage.

- 7.3 An option that was considered and which providers were asked to comment on was around alternative payment models. From the feedback provided, there is little evidence to confirm the benefits of a wholesale change at this time, which would therefore represent a financial risk.
- 7.4 The Council has an option to focus on eligible social care need only, and not to invest in prevention, communities and reabling approaches. However, with increasing demand and increasing costs alternative options need to be explored to manage future challenges.

## **8 Equality and Human Rights Assessment**

- 8.1 All West Sussex residents with assessed eligible social care needs have a right to have those needs met through the local authority. The proposals are developed in order to ensure that the Council can support this right.

## **9 Social Value and Sustainability Assessment**

- 9.1 The delivery of care and support at home services involve a significant amount of travel which has an impact on the environment. A sustainability assessment has been completed and identifies the positive impact the proposals could have on social value and sustainability, with potential reduction in travel being one example to reduce carbon footprint.

## **10 Crime and Disorder Reduction Assessment**

- 10.1 There are no anticipated Crime and disorder implications.

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**Appendix**  
Sustainability Assessment

**Background paper**

[Consultation Document](#)