

Wiltshire Council

Cabinet

14 July 2020

Subject: Recommissioning and Procurement of Integrated Community Equipment and Support Service (ICESS)

Cabinet Member: Cllr Simon Jacobs – Cabinet Member for Adult Social Care, Public Health and Public Protection

Key Decision: **Key**

Executive Summary

1. This report makes proposals to support the tender and award of a new contract for the Integrated Community Equipment and Support Service (ICESS).
2. The service plays a key role in preventing avoidable hospital admissions and enabling vulnerable people to continue living at home with less reliance on formal care. The current service is provided under a contract with Medequip Assistive Technology Ltd.
3. These services are commissioned under the Better Care Fund as part of integrated commissioning arrangements with the NHS, through Bath & North East Somerset, Swindon and Wiltshire Clinical Commissioning Group (BSW CCG).
4. The total expenditure on the ICESS equipment contract equated to £6.656m in 2019/20. This is split £1.854m for Wiltshire Council and £4.802m for the CCG.
5. A previous procurement was halted in September 2019 following a challenge by an unsuccessful bidder. A contract variation was agreed with Medequip which in the first instance was for 9 months, to 31st May 2020, and includes an automatic extension on a rolling three-month basis.
6. Whilst the rolling extension was agreed with Medequip, the decision in the first instance was for 9 months, to support the delivery of a new tender. Significant changes in staff in commissioning and the challenges of undertaking a complex tender during COVID has resulted in this timeframe not being met.
7. Delivering a new contract before the second rolling three-month extension option, 30th November 2020, is not viable due to the risks of implementing a new contract of this scale during the winter months and the pressures the health and care system are usually under.
8. It is proposed that the flexibilities under the terms of the existing contract are utilised with a view to delivery of a new tender and commencement

of the new contract start date by 1st April 2021. The value of the exemption, if approved, is £2.218m. This is split £0.618m for Wiltshire Council, and £1.601m for the CCG.

9. This report outlines a project timeline which will enable officers to establish clear governance between Council and the CCG, and also to re-engage with the provider market ahead of the procurement on the scope and criteria for the tender.
10. The additional extension, which will be facilitated by the terms of the existing contract, promotes service continuity over the winter period, reducing risks to the care and health system at a time of peak demand.

Proposal(s)

1. This report recommends Cabinet agree the following proposals:
 - i. To grant an exemption to procurement rules enabling a 10-month extension to existing contractual arrangements with Medequip, which shall expire at 31st March 2021
 - ii. That officers continue to undertake the tender programme, award and implement a new contract for the ICESS service by 1st April 2021
 - iii. Delegate authority to award a new contract and all associated documents to the Director Joint Commissioning in consultation with the Cabinet Member for Adult Social Care, Public Health and Public Protection and the Director of Finance. The officer with delegated authority will seek agreement for the decision to award with BSW CCG.

Reason for Proposal(s)

1. The purpose of this paper is to provide an update to Cabinet on the joint procurement process between Wiltshire Council and NHS for Integrated Community Equipment and Support Services and sets out the approach that is being taken, including an indicative timetable for the procurement and scope of services.
2. Cabinet is asked to authorise the extension of the existing contract with Medequip in relation to ICESS (as set out in paragraph 1.3) to give sufficient time to engage with the market and complete a tender process that delivers value for money through the new contract.
3. This report is seeking approval to delegate authority to award contract, in relation to the services being commissioned by Wiltshire Council (as set out in paragraph 1.3 below).

Chief Executive Officer: Terence Herbert

Wiltshire Council

Cabinet

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Cabinet Member: Cllr Simon Jacobs - for Adult Social Care, Public Health and Public Protection

Key Decision: **Key**

1 Purpose of Report

- 1.1 This report makes proposals to Cabinet which support the successful re-tender and contract award for a new integrated community equipment and support service (ICESS).
- 1.2 The resulting contract will deliver services commissioned under the Better Care Fund and within scope of Section 75 (S.75) arrangements between Wiltshire Council and the NHS, through Bath & North East Somerset, Swindon and Wiltshire Clinical Commissioning Group (BSW CCG). Therefore, the report includes the governance arrangements to ensure clear and timely decision making between the organisations.
- 1.3 This report makes the following specific proposals to Cabinet:
 - i. That existing contractual arrangements with Medequip are extended by 10 months to 31st March 2021
 - ii. That officers continue to undertake the tender programme, award and implement a new ICESSE contract and service by 1st April 2021
 - iii. To delegate authority to award a new contract and all associated documents, to the Director Joint Commissioning in consultation with the Cabinet Member for Adult Social Care, Public Health and Public Protection and the Director of Finance. The officer with delegated authority will seek agreement for the decision to award with BSW CCG.
- 1.4 The report also identifies the recent background to the previous unsuccessful tender for these services and demonstrates that the outcome from that previous tender has been considered and informs the current project.

2 Relevance to the Council's Business Plan

- 2.1 The proposals within this report resonate strongly with the vision and priorities of the Council's Business Plan (2017-2027), most notably in protecting the vulnerable:

- i. ICESS has a key role in prevention: avoiding hospital admissions and offering tangible, additional support to carers.
- ii. Using integrated health and social care arrangements (Better Care Fund and S.75) to more effectively manage demand on the local care and health system.
- iii. A more personalised, targeted approach to supporting complex cases.
- iv. By supporting reduced package costs and enabling more effective use of existing capacity in the wider social care and health workforce, ICESS services help Wiltshire Council and BSW CCG get '*the right services to the right people at the right time*'.

3 Background

3.1 About ICESS

3.1.1 These services are an essential part of the future care system. They support other developments which improve the health and wellbeing and independence outcomes of customers, including asset based social care practice and outcomes-based commissioning.

3.1.2 The aim of ICESS is to enable customers and/or their Carers to access a range of equipment, products and minor adaptations according to assessed need. A fundamental principle of the service is to promote and enable customers to continue living independently and in their own homes and communities. An overview of current service performance is attached as Appendix 3.

3.2 Statutory Requirements

3.2.1 NHS and Local Authorities in England have a responsibility to provide children and adults with aids, equipment and adaptations to support people with daily living, disabilities, nursing or medical needs. Depending on the type of need and the age of the person requiring support, different legislation can apply.

3.2.2 Social Care: Section 2(1) of the Care Act (2014) requires a Council to provide or arrange for the provision of services, facilities or resources (or take other steps) which it considers will contribute towards preventing, delaying or reducing the needs for care and support of adults or for support to carers.

3.2.3 In respect of children's social care services, Councils have a duty under Section 2 of the Chronically Sick and Disabled Persons Act (1970) to provide practical assistance and additional facilities designed to secure greater safety, comfort or convenience to those people assessed as needing them.

3.2.3 NHS Services: Section 3 of the NHS Act (2006) states that CCGs must arrange for provisions – "*to such extent as it considers necessary to meet the reasonable requirements*" of the local population it is responsible for. *This includes the provision of "such other services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as the group considers are appropriate..."*.

3.2.4 Section 56 of the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (October 2018) outlines the responsibility for equipment and adaptations where an individual is eligible for NHS Continuing Healthcare and is in their own home.

4 Main Considerations for the Council

4.1 Intended Scope and Criteria for the Tender

4.1.1 To meet the varying statutory duties across health and social care organisations, the Wiltshire ICESS model will include the following service elements:

- i. Home nursing equipment such as beds, mattresses and commodes
- ii. Equipment for daily living such as shower chairs and raised toilet seats
- iii. Moving and handling equipment such as hoists and slide sheets
- iv. Pressure relieving equipment such as cushions and mattresses
- v. Continence products including all products on an agreed formulary
- vi. Minor Adaptations such as grab rails, access rails and concrete ramps
- vii. Mobility Aids such as walking frames and walking sticks
- viii. Assessment equipment for demonstration and assessment purposes
- ix. Wheelchair loans and accessories for both adults and children
- x. Paediatric equipment seating, bathing, mobility aids and moving and handling
- xi. Retail and demonstration facilities – to promote self-care and private funder options

4.1.2 Customers and/or their Carers include people of all ages with a Wiltshire General Practitioner (GP) and those living in the Wiltshire Local Authority area. Provision is made for self-assessment with advice on purchasing and rental options for those who wish to access services independently of Commissioners.

4.2 Pricing and Value for Money

4.2.1 The need to facilitate timely hospital discharges and to support more people within the community has increased the need for efficient, appropriately resourced equipment services. Referrals into the ICESS service have subsequently grown. This increase in demand is expected to continue. There is evidence to show that where equipment may avoid or reduce the need for support on more costly long-term interventions (such as homecare and care home placements), investment in such services is beneficial.

4.2.2 A thorough procurement analysis of service models and options will be completed. The successful tenderer will be decided on criteria which evaluates both cost and quality and demonstrates the requirements of Best Value.

4.2.3 The outcome of the previous procurement has informed the approach to evaluation. Work is being completed to better understand whole life cost models for equipment and the cost quality ratios.

4.3 Market Readiness

- 4.3.1 The widespread impact of the COVID-19 pandemic has reprioritised activity across all parts of the care sector. Many organisations, including the incumbent contractor, Medequip, have raised concerns on the impact of COVID-19 on their business model and readiness to engage in a tender exercise at this time.
- 4.3.2 The community equipment provider market is a narrow one. Officers intend to arrange preliminary market consultation with operators in the market to support and inform planning and conduct of the procurement. The intention is to obtain views on market readiness during the recovery stage of COVID-19. Care will be taken when undertaking market consultation to ensure fair and transparent discussions.

4.4 Governance and Integrated Commissioning Arrangements

- 4.4.1 The Council is the lead commissioner for the ICESS tender under S.75 arrangements with BSW CCG. The S.75 sets out how the parties will work together to manage the contract and deal with any risks or liabilities during the lifetime of the contract.
- 4.4.2 Wiltshire's Joint Commissioning Board (JCB) will consider a proposal for inter-organisational governance for the ICESS project.
- 4.4.3 Robust project management arrangements have been established. A project group manages the day-to-day running of the tender project. Project leadership is through a senior commissioner for the Council, with representation from BSW CCG and additional capacity from across commissioning and the Council's corporate services.

5 Overview and Scrutiny Engagement

- 5.1 The Chairman and Vice-Chairman of the Health Select Committee were given a briefing on 15th June 2020. The members' main concerns were around the legality of the tender being questioned, however, officers provided assurances that this process was in line with legal advice.
- 5.2 Additionally, the members suggested that outcomes-based results around the recycling of equipment ought to be investigated. This would see the service deliverer being responsible for monitoring and recycling equipment and could lead to greater value for money, as well as a more efficient service in the long-term. Alongside this, the members suggested that Council Officers carry out a formal monthly service check on the capital products in the community, with partners encouraged to follow the same approach.

6 Safeguarding Implications

- 6.1 Current contract arrangements with the ICESS provider contain robust safeguarding measures in line with Council and CCG policy. Contracts give clear direction on how and when to raise a safeguarding alert to avoid

any confusion about who will do this and/or assumptions that someone else will raise the alert.

- 6.2 Contracts also ensure that any issues relating to child protection are identified and appropriate referral made to children's services. Any new service specification will continue to include these robust measures.

7 Public Health Implications

- 7.1 The current service specification is underpinned by public health data and evidence from the Joint Strategic Needs Assessment (JSNA). With relevant Key Performance Indicators commissioners ensure the services being delivered are effective and efficient to meet the needs of the people of Wiltshire.
- 7.2 The extension of this contract would benefit the overall health and wellbeing outcomes of people in terms of service continuity and reducing the risk that their health and care outcomes could be compromised if the service was not in place.
- 7.3 As part of the recommissioning route, public health colleagues will support the development of the specification for optimum service coverage and delivery.

8 Procurement Implications

8.1 Operation of the rolling Extension Mechanism in the current Contract

- 8.1.1 The Council, following its own internal exemption governance, is seeking to operate a three-month rolling extension clause contained within the current contract for ICESS.
- 8.1.2 In operating this extension, the Council is relying on regulation 72 of the PCR 2015, which stipulates that contracts may be modified without a new procurement in certain circumstances. Regulations 72(1) (a), (b) and (d) can be ruled out from the outset as the requirements are not met.
- 8.1.3 The Council would seek to rely on Regulation 72(1)(c) for this extension. There is a risk of challenge by a supplier to this approach, but the risk is mitigated by the new procurement and proposed new contract in March 2021. A challenge by a supplier in such circumstances is unlikely to be economically worthwhile for the supplier.

8.2 Implications relating to the new Procurement

- 8.2.1 The Council will follow a robust process in line with the Public Contract Regulations 2015 and owing to the value of the resulting contract the procurement will follow a full OJEU (Official Journal of the European Union) process.
- 8.2.2 The advertisement of the procurement opportunity should stimulate the market and will seek to invite competitive bids from all interested and capable operators of such services.

- 8.2.3 It should be noted that the previous procurement conducted in 2019 was halted following a challenge from an unsuccessful bidder and a review of the procurement. This demonstrates the appetite in the market for challenge (as well as its competitive nature). Any new procurement will build on lessons learned and seek to mitigate any future risk of challenge.

9 Equalities Impact of the Proposal

- 9.1 An overview of the Equalities Impact Assessment (EQIA) is attached as Appendix 2.
- 9.2 The recommissioning of ICESS will support equitable access to any individual to health and social care community equipment and adaptations. The specification of future services will state that providers are expected to demonstrate social value.
- 9.3 Commissioners will require the provision of services which take account of and are committed to ensuring that the organisation values diversity and promotes equality and inclusivity on all aspects of its business.

10 Environmental and Climate Change Considerations

- 10.1 The tender evaluation criteria and contract terms and conditions will include sections on environmental and climate change impact to ensure this is appropriately considered.
- 10.2 Energy consumption associated with the service area will remain roughly at current levels due to the scope of the service unchanging. Annual reviews of the providers operations will place requirements on the provider to make ongoing improvements in this area and in the day to day environmental management of the service.
- 10.3 Carbon emissions will be managed through energy efficient options, some of which are:
- i. Recycling of equipment to reduce scrapping levels and the purchase of new products (target 90%)
 - ii. Reduction of homecare services through the use of equipment (reducing home care worker travel)
 - iii. Smart logistics systems to calculate most effective delivery/collection routes

11 Risks that may arise if the proposed decision and related work is not taken

- 11.1 This report's proposals offer the most effective mitigation to the following known risks:
- i. ICESS being delivered outside of formal contract term.
 - ii. Service interruptions created by starting a new contract over the winter period at a time of peak demand for the care and health sector.
 - iii. Undertaking an emergency procurement, which would lack the required time to create a robust opportunity.

12 Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

- 12.1 A risk and issues log is in place and regularly reviewed through the project group; enabling potential risks and mitigations to be identified and implemented. This is a live document which allows risks and mitigations to be continually revised as the project develops.
- 12.2 There is still a risk of challenge from providers; both to the extension of the current contract as well as the tender process and outcome. However, the impact and likelihood of these risks will be reduced by early and transparent engagement with providers, noted under 4.3. This same engagement offers an opportunity to assess providers' appetite and readiness for a new tender as well as the potential impact of COVID-19 on pricing and availability.
- 12.3 As with all projects of this nature, securing consistent project and oversight resources from across Council and CCG functions to take forward project activity will be important to delivering the project to the required standard within the indicative project timeline (see appendix 1). Oversight functions identified will ensure that the outcome of the previous tender exercise is properly taken into account in technical procurement documentation before the new tender is published.

13 Financial Implications

- 13.1 Total expenditure on the ICES equipment contract equated to £6.656m in 2019/20. This is split £1.854m for Wiltshire Council and £4.802m for the CCG.
- 13.2 The service sits within the Better Care Fund, with each partner responsible for funding its respective share of the pooled arrangement. Contributions are determined by which organisation is responsible for individual purchases at customer level.
- 13.3 The value of the exemption, if approved, is £2.218m. This is split £0.618m for Wiltshire Council, and £1.601m for the CCG.
- 13.4 It is not possible to estimate whether the delay costs or saves money without knowing what the outcome of the tender exercise would have been. However, given paragraph 4.3.3 above, which refers to the market as narrow, it would not be unreasonable to consider that the cost of the new contract would be broadly similar to the current contract, and therefore that a short delay to that procurement process does not represent a missed opportunity for savings.

14 Legal Implications

- 14.1 As noted above, the previous procurement was halted. Care will need to be taken to ensure the extension, new procurement and contract are compliant with the Public Contracts Regulations 2015 and any risk mitigation factors are considered and implemented, where appropriate.

Legal advice and support has been provided and will continue to be provided on these matters.

15 Workforce Implications

- 15.1 These proposals relate to a continuation of current activity which is delivered through external suppliers. So, there is little-to-no direct impact on Council or CCG employed staff.
- 15.2 Community equipment plays an important role in the delivery of care and support services. In improving outcomes for vulnerable people, it enables existing capacity in the wider social care workforce (largely operated by private companies) to be used to best effect for those that need it the most.
- 15.3 If the incumbent provider is not successful in the new tender then TUPE would apply. However, while the Council would be an interested party, any transfer of staff would be a matter between the incumbent and new provider.

16 Options Considered

- 16.1 Previous attempts to contract for ICESS on a wider footprint, namely across the BSW CCG area alongside B&NES and Swindon have been considered but discounted, due to:
- i. The respective local authority areas being at different stages in their commissioning cycle. These were not able to be aligned.
 - ii. Additional complexity of service delivery arrangements in B&NES such as the prime provider contract with Virgin Care.
- 16.2 The option to bring the service in-house had been considered. It was felt that the expertise required in community equipment management and delivery logistics is not held at this time. There is adequate flexibility within specifications and terms and conditions for contracted providers to meet the changing demands on the service.

17 Conclusions

- 17.1 All of the above information has been taken into account in establishing this report's proposals.

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Date of Report: 26.07.20

Appendices

Appendix 1 – Indicative Project Timeline

Appendix 2 – Equalities Impact Assessment (EQIA)

Appendix 3 – Current Service Performance

Appendix 1 - Indicative Project Timeline

Task Name	Date
Health Select Committee (informal briefing)	15/06/2020
Exemption Panel (Reg 72)	17/06/2020
ICESS Project Board (15/06/20 - 01/12/20 (Fortnightly))	15/06/2020
ICESS Project Group (15/06/20 - Tue 01/12/20 (Weekly))	15/06/2020
ICESS Workstreams (15/06/20 - Tue 01/12/20 (Weekly))	15/06/2020
Stakeholder Engagement Plan	17/06/2020
Project Initiation Document (PID) sign off	17/06/2020
Joint Commissioning Board (JCB)	18/06/2020
Outline Business Case - Stage 1 (Business Justification) sign off	03/07/2020
Cabinet Meeting (Call-in Mon 27/07/20)	14/07/2020
Hold Market Engagement Session	16/07/2020
Final Business Case - Stage 2 (Delivery Strategy) sign off	20/07/2020
OJEU Publication (2 days)	30/07/2020
Tender Stage (03/08/20 - 18/09/20)	03/08/2020
Evaluate Selection Questionnaire (21/09/20 - 25/09/20)	21/09/2020
Tender Evaluation (28/09/20 - 23/10/20)	28/09/2020
Procurement Evaluation Report (27/10/20 - 13/11/20)	27/10/2020
Procurement Evaluation Report - Stage 3 (Investment Decision) sign off	13/11/2020
Standstill Period (16/11/20 - 30/11/20)	16/11/2020
Mobilisation Period (01/12/20 - 28/02/21)	01/12/2020
New service start date	01/03/2021
Annual Service Review - Stage 4 (Value Review)	01/03/2022

Appendix 2 - Equalities Impact Assessment (EQIA)

Section 5

Conclusions drawn about the impact of the proposed change or new service/policy

The recommissioning of ICESS will support equitable access to any individual to health and social care community equipment and adaptations. The specification of future services will state that providers are expected to demonstrate social value.

Commissioners will require the provision of services which take account of and are committed to ensuring that the organisation values diversity and promotes equality and inclusivity on all aspects of its business.

Section 6

How will the outcomes from this equality analysis be **monitored, reviewed** and **communicated**?

The performance for both the Council and CCG is monitored by the ICESS Contract Monitoring and Review Group (CMRG) and this will continue during the lifetime of the new contract. CMRG is attended by commissioners and prescriber representatives and is responsible for the continual develop of ICESS and will work with the provider to identify and implement opportunities for improvements in service delivery.

Appendix 3 – Current Service Performance

The current ICESS contract covers a range of provision which can be broadly defined under three headings:

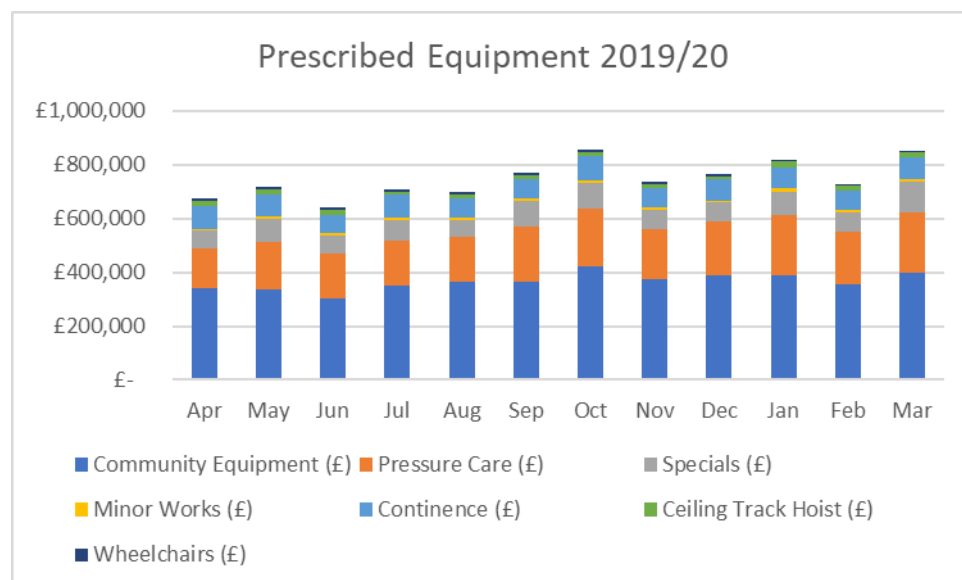
- **Community Equipment & Minor Adaptations** special seating, shower chairs, hoists, ramps, grab rails, etc.
- **Continence Products** a cyclical delivery service to people living in their own homes, which includes people living in Care Homes
- **Pressure Area Care** mattress overlays, foot protectors, chair cushions, etc.

Following an assessment of a person's need, authorised prescribers from Health and Social Care can access a variety of equipment and services from our ICESS provider, currently the prime provider is Medequip.

A prescriber may request non-stock equipment, that does not form part of the equipment catalogue, in cases where a person's needs require more complex equipment to support them, and these products are treated as 'specials'.

The current service model gives commissioners credit for stock items that can be recycled (the collection, cleaning, repair and storage of equipment for reuse). Specials are the property of the commissioner, whether in the customer home or returned to stores, and although a credit is not received the existing agreement allows for the storage of these products at no cost.

During 2019/20 the total cost of prescribed equipment was £8,969,571, the breakdown of type of equipment/product is detailed in the graph below:

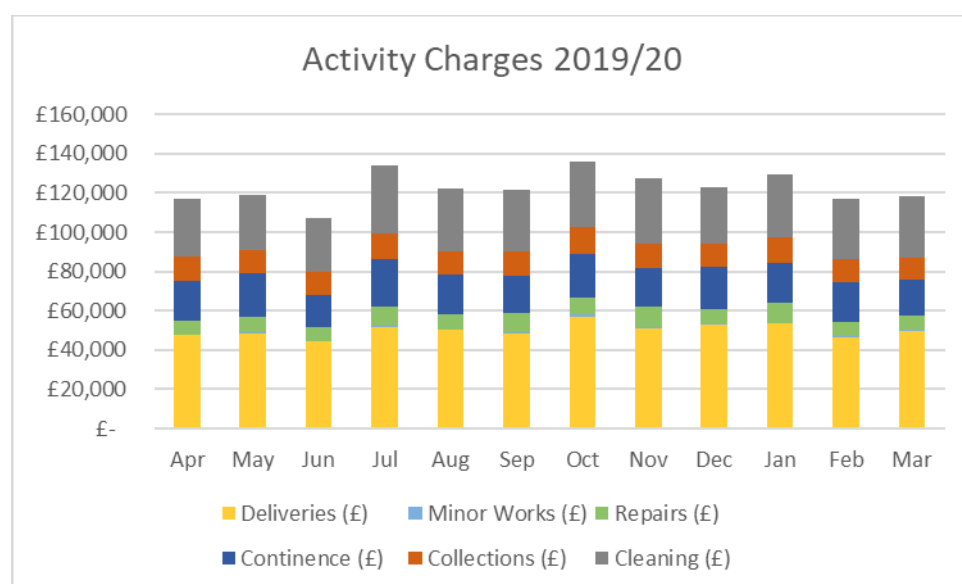


During the same period, the level of equipment that we could collect and receive credit for was £4,858,359.

Within the current service, activity charges are applied on a variety of works, additional to the cost of the equipment, as detailed below:

Activity	Options
Delivery or Collection to one address (excluding or including fitting or installation requirement)	Same Working Day
	Urgent: (within 1 working day of receipt of request)
	3 Day: (within 3 working days of receipt of request)
	Planned: (within 5 working days of receipt of request)
	Out of Hours: (required out of agreed working hours)
Delivery or Collection to Peripheral Stores	Planned: (within 5 working days of receipt of request)
Continance	Scheduled delivery to Care Home
	Planned: (within 5 working days of receipt of request) to customer address
Specials fee	10% of purchase price
Ceiling Track Hoist (nonmodular and not inclusive of site visit)	Installation
	De-installation
	Service/Maintenance
Servicing / Maintenance	Routine Inspection Charge
	Portable Appliance Testing (PAT) Charge
	Lifting Operations and Lifting Equipment Regulations (LOLER) Charge
Recycling	Categories A (most complex) to D
Minor Adaptations & Repairs	Administration fee (% of cost)
	Working Hours, first hour (per 15 minute thereafter)

During 2019/20 the total cost of activity charges amounted to £1,471,849 and servicing at £470,502 the breakdown of type of activity and servicing is detailed in the graphs below:



Servicing Charges 2019/20

