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| REPORT TO: | Cabinet – 12 April 2021 |
| SUBJECT: | Care UK – Provision of Care Home Services extension of Contract |
| LEAD OFFICER: | Annette McPartland, Director of Operations- Health, Wellbeing and Adults Rachel Soni, Interim Director of Commissioning and Procurement |
| CABINET MEMBER: | Cllr Janet Campbell - Cabinet Member for Families, Health and Social Care |
| WARDS: | ALL |
| <p>COUNCIL PRIORITY/POLICY CONTEXT</p> <p>A change in the way we deliver social care in order to reduce spend and live within our available resources is underway. This aligns to the following Croydon Renewal Plan priorities:</p> <ul style="list-style-type: none"> • We will live within our means, balance the books and provide value for money for our residents. • We will focus on providing the best quality core service we can afford. First and foremost, providing social care services that keep our most vulnerable residents safe and healthy. And to keep our streets clean and safe. | |
| <p>FINANCIAL IMPACT</p> <p>The proposal is to extend the existing service contract for 21 months at a cost of £4.586m for 9 months in 2021/2022 (27/06/21-31/03/22) and £6.114m for 12 months in 2022/23. The total additional cost is £10.700m. There is sufficient Adult Social Care budget to meet this expenditure with the budget held across two years £10.745m on the Care UK Budget. Total Budget available is £10.745m</p> <p>The extension of the service will secure the ongoing use of 120 residential and 30 nursing beds across three care homes (Langley Oaks, Heavers Court, Addington Heights). If the extension is approved with Care UK the effect of the decision would be to freeze the contract price at the current 20/21 rate with no inflation applied to the extension period. This results in avoidance of the additional costs of inflation.</p> | |
| <p>FORWARD PLAN KEY DECISION REFERENCE NO.: 1221CAB</p> <p>This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.</p> | |

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to:

- 1.1 Approve the extension and variation of the contract for the provision of care services with Care UK in accordance with Regulation 30 of the Tenders and Contracts Regulations for an additional period of 21 months until 31 March 2023 for an additional value of **£10,700,000**.
- 1.2 Note that the Contracts and Commissioning Board has endorsed the above recommendation.
- 1.3 Note that the total value of the extension (£10,700,000) will take the overall value of the contract to approx. £72m. This figure is £3m below the original estimated award value of £75m.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to seek permission to extend the Care UK – Provision of Care Home Service contract, to 31 March 2023 for our 3 care homes that are rated as 'Good' by the Care Quality Commission (CQC).
- 2.2 The contract was awarded to Care UK for a 10-year period at the Cabinet meeting of 6 April 2011 for a value of "circa £75m". The contract commenced on 27 June 2011 and has an option to extend within the Contract for a further 12 months. This is a contractual option and is subject to award approval.
- 2.3 As detailed below, the covid-19 pandemic has had a dramatic effect on the care home market. Whilst there has been good local and national support provided for care homes by various partners (Public Health, South West London CCG, Commissioners and others), bed occupancy rates have fallen from both natural and covid related deaths and new resident numbers entering care homes have been low.
- 2.4 Due to the above in 2.3, the care market industry are not expecting a return to pre-covid levels until late 2023. The Council will need time to consider the mix of its care provision as it is expected that the needs of residents will change due to covid. Therefore the most economically advantageous route for the Council is to extend the current Contract to 31/03/2023 to allow a full review of future needs to be carried out.
- 2.5 The content of this report has been endorsed by the Contracts and Commissioning Board.

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| CCB ref. number | CCB Approval Date |
|-----------------|-------------------|
| CCB1662/20-21 | 10/03/2021 |

3. DETAIL

BACKGROUND AND OVERVIEW

3.1 This service relates to the outsourcing of care services at the Homes for the Future residential care facilities schemes (the care services). The Residential Care homes were developed as part of the Homes for the Future P.F.I scheme. Three new schemes were developed:

- Heavers Resource Centre (60 beds) opened in 2008;
- Addington Heights (50 beds) opened in June 2010;
- Langley Oaks (40 beds) in July 2010.

All facilities management services on these sites are provided by the P.F.I contractor, Caring4Croydon.

3.2 The current Contract with Care UK finishes on 26 June 2021. It was awarded for an initial 10 years. There is a contractual option to extend for a further period of 12 months. A clause within the Contract says that the Council if it wishes to extend, it should enter into negotiations 12 months before the expiry of the Contract. Due to the covid-19 pandemic the Council have been predominantly working on the response to supporting care homes coupled with the uncertainty of the care market have been unable to carry out negotiations within the defined timeframe.

3.3 The recommendations within this report reflect the proposal to extend the contract until 31 March 2023 through exercising the contractual twelve month extension and approving a further extension by way of contract variation of nine months duration. As detailed in section 2.3 and 2.4 of this report the care market will not return back to pre-Covid levels until late 2023. Therefore the recommended extension will allow the Council time to carry out a full review of the potential care demand.

NEGOTIATIONS WITH CARE UK ON THE EXTENSION

3.4 The Council entered in Contract negotiations in late January 2021 and completed these on 12 February 2021.

3.5 Meetings were held with senior Care UK business development and operational managers. From these meetings and subsequent emails three options were agreed to be reviewed further. They were:-

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- **Option 1-** Extend the current Contract for the allowed 1 year extension period as defined within the Contract with no increase on the annual contract price (no inflation) based on the 20/21 contract price.
- **Option 2-** Extend the current Contract for 21 months (until 31/03/2023) with no increase on the annual contract price (no inflation) based on the 20/21 contract price.
- **Option 3-** Extend the current Contract for 36 months (until 26/06/2024) with no increase on the annual contract price (no inflation) based on the 20/21 contract price.

3.6 The Council considered these options and have recommended to pursue **Option 2** to allow a full review of the future needs of the care for Croydon residents and that this would also not increase the Contract price for the next 21 months.

CURRENT CONTRACT PERFORMANCE

- 3.7 One key indicator of the contract performance is the Care Quality Commission (CQC) rating of the sites. All three homes currently have a 'Good' rating.
- 3.8 The latest inspection by CQC found that all three homes were well led, with robust quality assurance processes in place and good engagement with residents and their families.
- 3.9 Staffing levels have remained consistent across all three homes over the past few years and this has improved the quality of care delivered.
- 3.10 Capacity levels have been consistently high (>85%) at Heavers Court and Addington Heights although Langley Oakes' capacity levels have sometimes struggled to maintain the same levels. In the summer of 2020 weekly operational calls were introduced with Care UK to discuss upcoming cases and iron out any barriers to admission. Since this was introduced steady increase in capacity at Langley has been seen.

FUTURE DIRECTION OF THE SERVICE

- 3.11 There are over 3000 care beds (128 care homes) within Croydon which makes it the largest care home market within London. To allow a full needs review, the Council will undertake a project to review the existing service over the next two years to try and create a more integrated service that will be more in line with future needs and understanding the impact of covid-19 on the care market.
- 3.12 This will be a fully commissioned review and the Council anticipates to complete this by February 2022 with a proposed strategy to return to Council Cabinet at this time for review.

FUTURE DEMAND OF CARE

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- 3.13 Adult Social Care accounts for more expenditure at Croydon than any other service, 31% of net budget. The pressures in this area are felt across the country. However, we know that our cost base is too high and we can learn from other councils. Working closely with a Local Government Association (LGA) Adults and Finance expert, we have reviewed every aspect of our budget. We have modelled plans to deliver significant savings over three years, based on LGA recommendations.
- 3.14 We are changing how we deliver social care in Croydon, in order to reduce our expenditure and live within the council's available resources. This plan will help the council to achieve the overall spending reduction required and put adult social care in Croydon on a sustainable footing. The overall objective is to reduce Croydon's expenditure on adult social care to the:
- London average or below for younger adults; and
 - The English average or below for older adults by March 2024, whilst fulfilling all our statutory responsibilities.
- 3.15 We also know the care market is fragile with rising costs, and recruitment and retention issues. Croydon has the largest care home market, with 128 care homes, and bears the safeguarding responsibility of all those residents whether or not they are placed by Croydon Council. This also places additional pressure on health services.
- 3.16 To enable this, we will create a new 3 year commissioning plan, focusing on contract spend reductions, good alternatives to care provision and support from market leaders. This will provide creative solutions for people to manage well. It includes a strategy and a model to transition peoples support to the voluntary sector away from statutory provision as well as working co-dependently through multi-agency teams. Strong micro-commissioning, market management and effective placements, brokerage and payments functions all form part of the model. Revised structures for our commissioning and procurement staff will mean priorities are aligned and resources maximised.
- 3.17 Additionally, we will review all contractual arrangements with providers in the adult social care market: as 65% of contracts end in the next two years, opportunities will be taken to design out cost and apply further efficiencies during procurement, bringing forward new service models and implanting best practice. This includes the review of care home provision.

4. CONSULTATION

- 4.1 The extension of the service is being recommended on the basis of there being no change to the care and support offer to residents and tenants living within homes and schemes for the duration of the contract. Therefore there it is not a requirement to formally consult service users on the proposal to extend.

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- 4.2 A full consultation was undertaken as part of the original procurement strategy report and any future modelling will include a full consultation.

5. PRE-DECISION SCRUTINY

- 5.1 This report was not presented to the Council's Scrutiny and Overview Committee prior to being brought to Cabinet but is subject to referral by the requisite number of Councillors.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 6.1 In light of the Section 114 notice issued, this required extension to this contract is in accordance with the following 'new' spend criteria within S115(6A) *'Prevent the Council's financial situation from getting worse'*.

This is because the Council has a statutory duty under the Health and Social Care Act 2012, to provide registered care to vulnerable adults who are ordinary residents of the Borough. This contract provides a large element of registered care provision for Croydon's Older People. The three care homes form part of a wider PFI agreement that runs out in 2038 so the buildings would still need to be maintained even if the service closed.

- 6.2 The Contract price is based on a formula set out in the contract which is made up of a set price for each of the Residential and Nursing beds less any deductions for failure to meet a number of KPIs.
- 6.3 A growth bid of £254,000 per year for 2021/22 and 2022/23 has been submitted and was approved in at full Council on 8 March 2021. This amount is to cover the projected pre-existing budget shortfall for the contract. Following approval, this results in a total budget of **£10.745m** over the duration of the 21 month contract extension.
- 6.4 That the report shows the effect of 9 months of the contract extension within 21/22. The other 3 months in 21/22 was agreed at

6.5 Revenue and Capital consequences of report recommendations

| | Current year | Medium Term Financial Strategy – 3 year forecast | | |
|---------------------------------------|--------------|--|---------|---------|
| | 2020/21 | 2021/22 | 2022/23 | 2023/24 |
| | £'000 | £'000 | £'000 | £'000 |
| Revenue Budget available | | | | |
| Expenditure | | £4,586 | £6,159 | |
| Income | | | | |
| Effect of decision from report | | | | |
| Expenditure | | £4,586 | £6,114 | |
| Income | | | | |
| Remaining budget | | £0 | £45 | |

6.6 The effect of the decision

The proposal is to extend the existing service contract for 21 months at a cost of **£4.586m** for 9 months in 2021/2022 (27/06/21-31/03/22) and **£6.114m** for 12 months in 2022/23. The total additional cost is **£10.700m**. There is sufficient Adult Social Care budget to meet this expenditure with the budget held across two years **£10.745m** on the Care UK Budget. Total Budget available is **£10.745m**.

The extension of the service will secure the ongoing use of 120 residential and 30 nursing beds across three care homes (Langley Oaks, Heavers Court, Addington Heights). If the extension is approved with Care UK the effect of the decision would be to freeze the contract price at the current 20/21 rate with no inflation applied to the extension period. This results in avoidance of the additional costs of inflation.

6.7 Risks

The risks to extending the contract is minimal. Care UK have agreed to continue delivering the service for a further 21 months, subject to agreement by Cabinet.

Risk of challenge from any external provider is also very low and is mitigated by the fact that the original award report was for a figure of “circa £75m” and the contract has only spent between £55m – £60m over the 10 years.

The extension is also a permitted modification pursuant to Regulation 72 (1)(c) PCR 2015, the criteria for which are:

- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
- (ii) the extension does not alter the overall nature of the contract; and

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

6.8 Options

Please see section 13.

6.9 Future savings/efficiencies

The contract has an indexation clause which increases the contract by the rate of inflation year on year. This proposal will freeze the current price for the duration of the extension thereby avoiding the additional cost of inflation.

Approved by: Josephine Lyseight, Head of Finance, on behalf of the Director of Finance, Investment & Risk and S151 Officer

7 COMMENTS OF THE DIRECTOR OF LAW

- 7.1 The Head of Commercial and Property Law on behalf of the Director of Law and Governance comments that it would be appropriate to undertake a data protection impact assessment given the length of the time the contract has been in place and nature of services. Other legal considerations are set out in the report.

Approved by Sean Murphy, Head of Commercial and Property Law, on behalf of the Director of Law and Governance

8 HUMAN RESOURCES IMPACT

- 8.1 The staffing for this Contract are employed directly by Care UK. As this report recommends an extension to the current Contract of 21 months there are no staffing or human resources impact from the proposed report. The staff working at the three care homes will continue to be employed by Care UK.

Approved by: Deborah Calliste, Head of Human Resources

9 EQUALITIES IMPACT

- 9.1 A full Equalities Impact Assessment was carried out as part of the original award. An additional Equality Analysis will not be required for this report as this is an extension to the contract for an existing service – no change is being made to the current service and as such there will be no impact on groups that share protected characteristics.
- 9.2 The Council will take steps to ensure equality clauses/requirements are monitored as part of the contract monitoring process and the provide supports the Council to meet its Public Sector Equality Duty via its Equality policy,

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collecting equality information and providing appropriate training

- 9.3 An Equalities Impact Assessment will be undertaken as part of the recommissioning process to ascertain the potential impact on groups that share a protected characteristic.

Approved by Yvonne Okiyo, Equalities Manager

10 ENVIRONMENTAL IMPACT

- 10.1 An environmental and design impact assessment is not required for this report

11 CRIME AND DISORDER REDUCTION IMPACT

- 11.1 There are no crime and disorder considerations arising from this report

12 REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 It is recommended to extend the current contract in accordance with the recommendations.

- 12.2 The reasons for this recommendation are:-

- The current impact of covid-19 means that the care market is not envisaged to return to pre-covid levels until the end of 2023.
- That this approach would mean that the Contract price will remain the same as the 20/21 values.
- That this will allow the Council a full review of future care demands with a recommendation to bring an updated strategy back to Council Cabinet in February 2022.
- That the current quality of care and contract performance is at good levels

13 OPTIONS CONSIDERED AND REJECTED

| Option Summary | Pros | Cons |
|-----------------------|-----------------|--|
| Allow contract to end | None identified | The service would need to be brought in-house at short notice with significant disruption. Current staff would have TUPE rights but there is no guarantee that all would move across. |

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| | | <p>Risk of significant reputational damage to the Council</p> <p>Increased likelihood of safeguarding incidents and deterioration in quality of care.</p> <p>No dedicated support team in place</p> |
| <p>Extend the contract for a 12 month period</p> | <p>Service already in place and no need to change current contractual arrangements</p> <p>Possible to maintain current bed rates for the extension – i.e. no inflation</p> | <p>Doesn't give us enough time to review the service properly or to carry out a retender of a service of this size.</p> <p>We are still dealing with the effects of the Covid pandemic and there is next to no chance of things returning to any form of normality in 12 months.</p> <p>Would need to commission a new service half way through a financial year.</p> |
| <p>Extend the contract for 21 months (PREFERRED OPTION)</p> | <p>Would allow for longer transition period</p> <p>Would allow for a more detailed review of the current service to be carried out and to map future care home demand</p> <p>Allow time for the market to stabilise more post Covid.</p> <p>This aligns with the Council's 3 year commissioning plan for the service.</p> <p>No increase in contract fee</p> | <p>The contract will need to get retendered sooner or later as will be outside extensions permissible</p> <p>Risk of procurement challenge from the market but this is deemed as low risk as per details in Section 6 of this report.</p> |

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| <p>Extending the Service for 36 months</p> | <p>Would allow us to negotiate a potential saving on the current contract rates.</p> <p>Would provide a high level of stability and continuity to the services.</p> <p>No increase in contract fee</p> | <p>The service does require review and change to bring it line with the changing demands of the population so a long term increase does not allow this.</p> <p>Risk of procurement challenge from the market but this is deemed as low risk as per details in Section 6 of this report.</p> |
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14 DATA PROTECTION IMPLICATIONS

14.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

YES

The provider will be classified as a "Data Processor" as defined in the Data Protection Act (2018) and the General Data Protection Regulation (*Regulation (EU) 2016/679*)

The following categories will apply

| Description | Details |
|---|--|
| Subject matter of the processing | Individuals receiving care and support from our service. |
| Duration of the processing | For the duration of the contract period |
| Nature and purposes of the processing | To provide services to the data subject To store and backup data to protect against data loss |
| Type of Personal Data | Name, DOB, gender, address and contact information, employment status, NHS number |
| Categories of Data Subject | Data relating to children (either who are directly receiving a service from us or indirectly via a parent, guardian or adult in contact with them) is processed as well as the following sensitive data: ethnicity, religion, sexual orientation |
| Plan for return and destruction of the data once the processing is complete | Care UK's standard retention period for Adult Social Care data is 8 years from the last contact with the data subject. |

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| UNLESS requirement under union or member state law to preserve that type of data | |
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14.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

YES

An updated DPIA has been carried out as part of the extension request to ensure that the necessary safeguards are still in place. The contract already contains safeguards around the management of personal data and as there is no change being requested to the way personal data is to be used or the service is delivered. This will be fully completed by the time of the start of the proposed extended Contract

Approved by: Stephen Hopkins, Head of Children's & Adults Placement & Brokerage on behalf of the Director of Operations, Adult Social Care

CONTACT OFFICER:

Paulo Borges – Category Manager,
Independent Living,
Tel 07732 073069

BACKGROUND PAPERS:

None