

## London Borough of Hammersmith & Fulham

**Report to:** Councillor Ben Coleman, Cabinet Member for Health and Adult Social Care

**Date:** 24/01/2021

**Subject:** Approval to Directly Award the Elmgrove House Extra Care Contract and the intermediate care pilot to Notting Hill Genesis (NHG)

**Report of:** Joanna McCormick, Assistant Director Health and Social Care  
Commissioning Social Care

**Responsible director:** Lisa Redfern, Strategic Director of Social Care

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### Summary

This report seeks the Cabinet Member, to note and ratify the decision to directly award a contract to Notting Hill Genesis, (NHG), for the provision of Elmgrove House Extra Care from 01 April 2020 - 31 March 2021, with the option to extend for a further one year.

The waiver to directly award a contract was approved on 02 December 2020 (appendix 2).

Elmgrove is an Extra Care Housing service providing accommodation and 24-hour care and support to mostly older vulnerable people with a range of disabilities. The modified terms will allow the Council to continue with the current level of provision. This will enable council officers to develop a better understanding of how the model of service delivery works and if it should be scaled up across the wider extra care services and in the future procurement at White City (provisional launch date of spring/summer 2022).

### Recommendations

1. Appendices 1 and 2 to this report are not for publication on the basis that they contain information relating to the financial or business affairs of any particular person, (including the authority holding that information), as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
  2. The Cabinet Member for Health and Adult Social Care ratifies the decision to award a contract to Notting Hill Genesis for the provision of Extra Care Housing Services for the period 01 April 2020 -to-31 March 2021 for an annual cost of £294,871 and approves a further extension to the contract for the period 01 April 2021 -to- 31 March 2022 at a cost of £307,338. Total maximum cost over two years of £602,209.
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**Wards Affected:** Hammersmith Broadway

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## H&F Values

Our Values	Summary of how this report aligns to the H&F Values
<ul style="list-style-type: none"><li>• Creating a compassionate council</li></ul>	Elmgrove House operates on a core and flexi model. Through the flexible element, residents receive care and support based on their assessed needs which can be more responsive to their changing needs. Extra care housing allows residents with increasing care need to remain in the Borough and partake in activities in the community to stay connected and enjoy life.
<ul style="list-style-type: none"><li>• Doing things with local residents, not to them</li></ul>	NHG regularly consult with residents and their families to gather their feedback on how they are performing and act on recommendations or concerns raised. We will involve residents and their carers in the development and design of new services at White City as part of the procurement strategy.
<ul style="list-style-type: none"><li>• Being ruthlessly financially efficient</li></ul>	As Elmgrove operate a core and flexi model, we only pay for the care received, rather than paying a block amount based on assumed care needs. This also benefits the Council when a resident is absent from the premises, e.g. due to hospital admission, holiday etc.
<ul style="list-style-type: none"><li>• Taking pride in H&amp;F</li></ul>	We can be proud to have four extra care schemes in the Borough, investing in accommodation allowing residents to maintain their independence and stay local. Both Notting Hill Genesis extra care schemes in the borough – Elmgrove and Elgin - have been CQC inspected recently with good ratings

## Financial Impact

1. The contract variation will be funded through Revenue spending.

## Proposed 2020 – 2021/22 financial implications

2. The proposed contract will have four financial elements. This Paper addresses the Extra Care two) elements:

## 2.1 Extra care contract

This service has continued from 01 April 2020 and is proposed to run until the launch of the White city complex, which is currently projected to be the spring/summer of 2022

- (i) The **core price** will be a fixed annual cost of £168,762<sup>1</sup>, which covers the essential elements of the service such as night cover, scheme manger, supervision
- (ii) The **flexi element** is variable and paid on assessed need and occupancy levels. It is estimated at £138,576 per annum, assuming 14 hours of care per person for 12 extra care units at the agreed reduced hourly rate of £15.82. 6 months of actuals has been included in the 20/21 cost forecast resulting in a reduction of flexi costs.

## 2.2 Step Up / Step Down Pilot

This service is scheduled to commence 01 December 2020 to run for either six months (to 31 May 2021) or one year (to 30 November 2021)

- (i) The pilot 2 intermediary beds will have fixed care and support costs of £34,644 based on 21 hours per week for the two beds at the same hourly rate of £15.82
- (ii) Housing and associated costs relating to the intermediary beds pilot will cover the rent, service charge and domestic cleaning at a cost of £43,885 + running costs of £328 per annum

3. Prior to this award, the core price and estimated flexi price had an annual contract value of £311,346.

<b>Elmgrove House</b>	<b>2020/21 Cost</b>	<b>2021/22 Cost</b>	<b>TOTAL maximum Cost</b>
- Core	168,762.00	168,762.00	337,524
- Flexi	126,109.00	138,576.00	264,685
<b>TOTAL</b>	<b>294,871.00</b>	<b>307,338.00</b>	<b>602,209</b>

## Legal Implications

1. This report recommends the Council ratifies the decision to award a contract to Notting Hill Genesis (NHG) for the provision of Extra Care Housing Services for a period of 12 months (01 April 2020 until 31 March 2021) with an option to extend for a further period of 12 months for a maximum contract value of £602,209.
2. The contracts fall under the category of Social and Other Specific Services under the Public Contracts Regulations 2015, (PCR), where the EU threshold is £663,540. The value of the contract is below the threshold and therefore the PCR does not apply in full. However, the contract for the provision of Extra Care Services has been with the provider for some time, therefore the cumulative value of the contract is above the EU Threshold.

3. Accordingly, there is risk of a challenge in awarding this further direct award contract even for a short-term duration. Therefore, it is advised that this direct award should be awarded for the shortest duration possible. The Council is required to comply with the general principles of transparency, equal treatment, non-discrimination and proportionality. Accordingly, the Council should begin a new procurement process for the provision of these services.
4. It is therefore unknown whether a challenge is likely or not. In order to mitigate any losses arising out of a potential challenge, it is proposed that suitable contractual provisions are agreed with NHG that allow the Council to terminate the contract immediately in the event of a successful procurement challenge, where this direct award is declared to be ineffective.
5. As a matter of local government law, a decision cannot be taken retrospectively. Were it not for the extreme urgency, this approval should have been obtained prior to the provider resuming the services and therefore the recommendation is to note and ratify the awards of the contracts that have already been made as opposed to approving it.
6. As the value of the value of the contract exceeds £25,000, Regulation 112 of the PCR requires the Council to publish on Contracts Finder within a reasonable time providing the name of the contractors, the date on which the contract was entered into, the value of the contract and whether the contract is an SME (small or medium-sized enterprise or VCSE (voluntary, community, and social enterprise)).
7. Advice should be sought on the appropriate terms and conditions.
8. Waivers of these requirements have been noted on the ground that there are other circumstances which are genuinely exceptional pursuant to CSO 22.3.6.
9. As this is considered a high value contract, where the total maximum value over the whole proposed contract period exceeds £189,330, under the Councils Contract Standing Orders (CSOs) the subject matter of this report is for the SLT Member is consultation with the relevant Cabinet Member to approve pursuant to CSO 21.1. In accordance with CSO 21.5 this award must be submitted to the Contracts Assurance Board before being submitted for approval by the decision maker.

*Implications completed by Hannah Ismail, Solicitor at Sharpe Pritchard, email: [hismail@sharpreritchard.co.uk](mailto:hismail@sharpreritchard.co.uk), tel: 0207 405 4600*

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### **Background Papers Used in Preparing This Report**

None

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## DETAILED ANALYSIS

### 1. PROPOSALS AND ANALYSIS OF OPTIONS

#### **Option 1 - Do Nothing**

- 1.1. The Elmgrove contract expired 31st March 2020. Notting Hill Genesis (NHG) has continued to deliver the service since 01 April 2020 to ensure service continuation. To continue with no contract is placing the service, the Council and provider in a position of financial vulnerability. Should it be considered that there be a change to the service delivery model, this will have to be done in a carefully planned way. There will be a risk of severe disruption to vulnerable residents if the service is not extended. Therefore, this option is not recommended.

#### **Option 2 - Extend the contract for six-months and close the service**

- 1.2. As the Elmgrove contract has ended, there is the opportunity to consider if there is an ongoing requirement for the service. If the service were to be closed, a directly awarded contract for at least six months would be needed to enable the decant of Elmgrove House as the residents have assured shorthold tenancies and the Council has the responsibility to ensure that their care needs would continue to be met. This would involve extensive resident engagement.

The service is achieving good outcomes and is popular with residents, family and stakeholders. Although there are a small number of voids across the provision of ECH, there is insufficient voids to decant residents to existing in-borough stock and would be a significant upheaval for residents.

This option could offer some savings to the Council on the core costs of the Elmgrove contract, but the residents will continue to have care needs which will need to be met, either in alternative extra care provision, residential accommodation, or through homecare should they move to independent living. For these reasons this option is not recommended.

- 1.3. For the reasons set out in this report, it is proposed to make a direct award of a revised contract.

The direct award of the contract beginning on 1 April 2020 with the possibility of a further period of up to one year, being + 6months + 6months. This is dependent on the launch of the White City development, subject to earlier termination in accordance with the terms and conditions of the Agreement or in accordance with common law or statute.

### 2. REASONS FOR DECISION

- 2.1 Extra Care Housing, (ECH), is accommodation designed to meet the needs of usually older people (aged 55+) who require access to 24-hour care and support because of a disability. People who live in ECH have their own self-contained home, their own front door, and a legal right to occupy the property.

2.2 ECH enables the Council to meet several strategic priorities including the delivery of flexible, integrated services that enable residents to exercise choice and control in their lives; the promotion of health & well-being and the use of local networks and services to meet people’s needs.

2.3 The social benefits of ECH are well-documented and include:

- Better quality of life
- Access to leisure and social activities reducing social isolation and improving well-being;
- Well-designed environment that can be a home for life; residents can remain in their own home even as they require increasing care and support.

2.4 Elmgrove extra care is delivering good outcomes for residents. NHG regularly seek customer feedback and recently reported high levels of satisfaction with the service, with residents describing the staff as caring, approachable, and friendly. Next of kin praised the manager and support staff as people to trust and rely on. Tenants appear to be happy with the standard of cleanliness, decorative order, and repair at Elmgrove. The service had a CQC inspection in September 2019, and it was deemed to be “Good” in all areas.

It seems, therefore, in the Council’s best interest to directly award the contract and pilot to NHG, to give the Council time to undertake the older people’s accommodation review that will inform whether the service’s model will be included in the procurement exercise for the White City extra care. It is anticipated that this procurement will start in spring 2021 for the service to start in 2022. To run a procurement for a short-term contract, with no fixed end date, would not be a good use of resources; restricts the opportunity for consultation with key stakeholders and could cause additional, unnecessary disturbance to residents and staff, for example, the TUPE process.

### 3. PROPOSAL AND ISSUES

3.1 We currently have four extra care housing schemes in H&F as detailed in the table below.

<b>Scheme name</b>	<b>Care and Housing Provider</b>	<b>No. units</b>	<b>Unit Type</b>	<b>Location</b>	<b>Contract End Date</b>
Elgin Close	NHG	36	33 x 1-bed 3 x 2-bed	Shepherds Bush	30.06.2027
<b><i>Elmgrove House</i></b>	<b><i>NHG</i></b>	<b><i>14</i></b>	<b><i>x14 Bedsits</i></b>	<b><i>Hammersmith</i></b>	<b><i>31.03.2020</i></b>
Mary Seacole House	London Care & Anchor Hanover	32	30 x 1-bed 2 x 2-bed	Ravenscourt Park	31.01.2031  (PFI)

	Contractor being Care UK				contract)
Olive House	London Care & Care UK	40	36 x1- bed 4 x 2- bed	Sands End	30.06.2024

3.2 In addition, a planning application has been approved for the development of 60 units – 15 shared ownership + 45 rental - of extra care housing on the former M&S warehouse site in White City, due for completion in 2022.

3.3 Elmgrove House is the smallest of the current schemes providing 14 bedsits, primarily for people aged 55 years and over. All referrals are via adult social care and all individuals must have assessed eligible social care needs.

3.3.1 The service is well regarded, accommodating some older people with dementia and those who have been struggling to manage in the community. The challenge for the Council is to ensure value for money as it is harder to secure the benefits of economies of scale in a scheme the size of Elmgrove.

3.3.2 In some part to address this, when the contract was let in 2016, a new core and flexi operating model was introduced and piloted for the duration of the contract term.

In this model, a number of activities are deemed core and this element is financed as a block regardless of occupancy levels. The flexi element varies per person based on assessed needs and the amount that is paid to NHG varies accordingly.

3.3.3 This was a new model for ECH in H&F and is considered the optimum model to:

- achieve improved service outcomes,
- increase customers' choice,
- control over how they meet their identified needs,
- ensure greater transparency of the breakdown of ECH costs and which services residents are receiving, and
- deliver better value for the Council.

3.3.4 The core costs are block funded and do not cover any housing charges but are needed to maintain a minimum level of provision to ensure a safe and effective service.

Activities covered under the core costs include:

- Provision of 24-hour staffing
- Quality Assurance
- Assessment, care and support planning
- Some aspects of social inclusion including group activities and communal meal provision as may be agreed
- Medication management (liaison with pharmacies, maintaining records)
- Responding to emergencies and unforeseen unplanned care



- Handover times

3.3.5 This new way of working has been monitored over the course of the contract on a continual learning basis and has been identified as delivering value for money for the Council. However, there has been some learning in managing the flexi element in order that payments flex up and down appropriately and in a timely way. There have also been some medium-term voids (12 weeks).

- 3.4 Notting Hill Genesis are a London Living Wage (LLW) employer. Even though it is not currently a requirement of their contract, LLW has increased on an average of 3.75% over the last six years (see table).

#### **National Living Wage and London Living Wage 2014 to 2019**

<b>Year</b>	<b>NMW / NLW over 25's</b>	<b>% change to previous rate</b>	<b>LLW</b>	<b>% change to previous rate</b>
<b>2014</b>	£6.50	3.00%	£8.80	3.00%
<b>2015</b>	£6.70	3.00%	£9.15	4.00%
<b>2016</b>	£7.20	3.80%	£9.40	2.70%
<b>2017</b>	£7.50	4.10%	£9.75	3.70%
<b>2018</b>	£7.83	4.40%	£10.20	4.60%
<b>2019</b>	£8.21	4.85%	£10.55	3.43%
<b>Average</b>		<b>3.86%</b>		<b>3.75%</b>

These factors have resulted in an overall reduction in the amount paid to NHG for the service and a greater financial strain for the provider. The impact of this re the financial sustainability of the service is greater due to its' small size, which a larger scale service may be able to absorb these reductions better.

#### **Future ECH procurement strategy**

- 3.5 The extra care scheme at White City is anticipated to be built and ready for occupancy in the spring /summer of 2022, which was extended from July 2021 due to the COVID-19 pandemic lockdown.

The Council is required to procure a care and support contract for this scheme and will start this process in summer 2021. Council officers will undertake an in-depth review of all older people's accommodation services; take on board the learnings from the Step Up / Step Down pilot and ensure a full consultation programme with all stakeholders – current Elmgrove residents, family, neighbours, voluntary organisations, out-of-borough residents - that will focus on the needs, demand and identify gaps in provision. This will inform the analysis of the impact of introducing an additional 60 units of extra care into the older people's housing portfolio, and specifically on Elmgrove.

### Added/Social Value

- 3.6 NHG provides additional services benefiting the residents at Elmgrove at no cost to residents or the Council. These additional services include:

<b>Social Value</b>	
<b>Activity</b>	<b>Added Value per Year</b>
Volunteers provide practical assistance and befriending to residents, Corporate employee volunteer scheme undertakes range of projects including garden makeover	£4,800
Activities Co-ordinator – 1 day per week – plans and delivers a range of activities on site and outside of Elmgrove	£5,400
Hardship and welfare Fund	£5,600
Partnership working with Age UK and University of 3 <sup>rd</sup> Age provide range of services to Elmgrove residents	£685
<b>TOTAL</b>	<b>£16,485</b>

### Proposed Procurement Timetable for extra care housing

- 3.7 The timetable for a future procurement for Elmgrove is set out below:

<b>Activity</b>	<b>Date</b>
Review of extra care needs and Launch of Elmgrove pilot	November 2020
Recommendations for Elmgrove House to SLT re extension of the pilot and ECH service	February 2021
Strategic Director of Social Care and Cabinet Member sign off on extension	March 2021
Consultation programme re White City	February - March 2021
Cabinet Member approval of wider ECH procurement strategy	April 2021
Preparation of call-off documentation	June 2021
Issue Tender	July 2021
Tender submission date	August 2021
Tender evaluation/governance	September – December

	2021
Tender Award	January 2022
Service implementation	Spring / summer 2022

#### **4. EQUALITY IMPLICATIONS**

- 4.1. There are no anticipated direct negative equality implications for protected groups at this stage because of the proposals outlined in this report.
- 4.2. Officers have considered the impact on older people as neutral. The approval of the direct award, as set out in the Recommendations, is expected to offer some service continuity for vulnerable residents. Officers also anticipate that improvements will be secured, and more personalised services delivered.

*Implications verified by: Fawad Bhatti, Policy & Strategy Officer, Public Service Reform, Tel. 07500 103617.*

#### **5. RISK MANAGEMENT IMPLICATIONS**

- 5.1. The Service has evaluated what are the best outcomes for Residents and Services users against the impacts of a direct award. It has concluded that the risk of change (continuity of a highly regarded well performing service) and benefits outweighs the requirement to procure, it has however in mitigation set out a timetable 3.18 for a review and review at Strategic Leadership Team. Being ruthlessly financially efficient also means that providers should be contributing to delivering Social Value (Objective 17 of the RFE Action Plan), in this case measurable benefits are outlined at 3.17.

*Implications verified by Michael Sloniowski, Risk Manager, Tel: 020 8753 2587*

#### **6. OTHER IMPLICATIONS**

- 6.1. For high value contracts (over £189.330) the CSOs 21.1 require the award to be approved by SLT member in consultation with relevant Cabinet Member.
- 6.2. A waiver was approved on the 02 December 2020 by the Head of Procurement as required by CSOs and agreed on the ground there are other circumstances which are genuinely exceptional (CSO 22.3.6).
- 6.3. An electronic copy of the completed (dated) Contract must be uploaded to the Contracts Register along with a copy of the award report (CSO 21.9).
- 6.4. The social value matrix has been completed as a part of the waiver approval. The total social value to be delivered for the duration of this contract has been calculated at £32,970 (being £16,485 per year). The contract manager must ensure this is monitored and delivered.

*Implication completed by Ilaria Agueci, Procurement Consultant Tel. 0777 667 2878*

## **7. CONSULTATION**

- 7.1. No formal consultation has been carried out regarding the recommendations in this report. However, feedback from residents in Elmgrove and other ECH schemes gained through customer engagement in the monitoring of the service has been used to inform the recommendations in this report.

NHG agrees with the recommendations in this report.

### **List of Appendices:**

**Appendix 1 - exempt financial information**

**Appendix 2 – Waiver (exempt)**