

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Deputy Leader (and Cabinet Member for Health and Adult Social Care)

Date: 14/02/2023

Subject: Directly Award a novated Contract for Elgin Close Extra Care Services and the Day Centre Services to Housing 21

Report of: Lisa Redfern - Strategic Director Adult Social Care

Report author: Karen Udale (Programme Lead) & Johan van Wijgerden (Strategic Commissioner) – Adult Social Care Commissioning and Partnerships

SUMMARY

This report seeks approval to directly award Housing 21 a novated Contract for the Extra Care Service and Resource Centre at Elgin Close. The current provider Notting Hill Genesis (NHG) have given notice to Hammersmith and Fulham that they intend ceasing provision of all Care Service in this borough and nationally.

Elgin Close was marketed by NHG for a potential buyer, which included the three elements: Building, Extra Care Service and Resource Centre. Subject to NHG's and Hammersmith and Fulham's due diligence processes, Housing 21 was selected as the most suitable organisation and is acquiring the business.

RECOMMENDATIONS

1. To novate the Extra Care Services and Resource Centre contracts at Elgin Close from NHG to Housing 21 by issuing a Direct Award of:
Extra Care Services for the value of **£3,584,088** for four-years and three-month 27th February 2023 to June 2027 (£66,998 per month pro rata) and Resource Centre for the value of **£362,625** from 27th February 2023 to February 2025. These are the current contract values with NHG and does not take into account any inflationary uplifts over the coming years.
2. That the Extra Care Services will continue until 2027 to bring it in line with the new Minterne Gardens Extra Care scheme also provided by Housing 21. Prior to the end of the contract a tender process will be undertaken for both schemes.
3. That the Resource Centre contract will be part of a Co-produced Strategic Review within the next two years along with all the Resource Centres/Day Opportunities in the borough.

Wards Affected: Conningham Ward

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	Housing and care services employing local people and embracing volunteering and intergeneration work
Creating a compassionate council	Recognising resident's individual needs and providing housing and services around them,
Doing things with local residents, not to them	Providing flexible care and support services and activities that promote independent living and a sense of wellbeing
Being ruthlessly financially efficient	Ensuring value for money by regular contract monitoring and adhering to KPI's
Taking pride in H&F	Providing high standard homes and good quality care services for residents
Rising to the challenge of the climate and ecological emergency	Contracting with a climate and ecological aware provider

Financial Impact

Elgin Close Extra Shelter Care

The total cost of the Elgin Close extra shelter care novation compared to the budget is shown in the table below.

	27th February to 31 March 2023	1st April 2023 to 31st March 2027	1st April to 31st May 2027	Total
	33 days	4 years (£)	2 months (£)	4 years & 2 months (£)
Contract value	72,688	3,215,904	133,996	3,422,588
Provider loss of housing benefit for voids	3,167	152,000	6,333	161,500
Total Cost	75,855	3,367,904	140,329	3,584,088
Budget	75,819	3,354,400	139,767	3,569,986
Variance overspend	36	13,504	563	14,103

The cost of the contract includes estimated payment of voids for care provision of £140,465, plus a further £38,000 to reimburse the provider for loss of housing benefit. Total estimated void costs equate to £178,465.

There is a Void Management project group focussing on streamlining current process and filling voids, as detailed in section 6 of the detailed analysis below

The overspend of £14,103 over the lifetime of this contract, will either be managed through the reduction of voids or within the overall Adult Social Care budget.

The financial implications exclude any inflation to both budgets and costs, which will be managed within the department, by the inflation workings group.

Elgin Close Resource Centre

The total cost of the Elgin Close Resource Centre care novation compared to the budget is shown in the table below

	27th February 2023 to 31st March 2023	1st April 2023 to 31st March 2024	1st April 2024 to 28th February 2025	Total
	33 days	1 year	10 months	
	£	£	£	
Contract value	17,042	188,500	157,083	362,625
Budget	17,042	188,500	157,083	362,625
Variance overspend	0	0	0	0

The cost of the contract includes void payment for 62-day care session voids out of 125 sessions per week, which equates to £112,400 per annum.

There is a Void Management project group focussing on streamlining current process and filling voids, as detailed in section 6 of the detailed analysis below

The contract is affordable within the current budget, there is a nil variance.

The financial implications exclude any inflation to both budgets and costs, which will be managed within the department, by the inflation workings group.

Implications completed by: David Hore, Finance Manager (Social Care)

Dated: 27 January 2023

Verified by Prakash Daryanani, Head of Finance (Social Care & Public Health)

Dated: 27 January 2023

Legal Implications

The Council has a duty to provide these services under the Care Act 2014

The sale of Notting Hill's interests in the extra care facility and resource centre at Elgin Close has meant that Housing 21 became successor as the building's owner, care provider and manager of the resource centre. This means that in practice the Council would be facing serious practical obstacles in procuring a new care provider or a new manager of the resource centre.

The contract with Notting Hill is subject to the requirements of the Public Contracts Regulations 2015 (PCR) as it is above the relevant threshold. The transfer to Housing 21 will take effect as a variation of the original contract with Notting Hill. Variations can take place only in the circumstances set out in regulation 72 of the PCR. One of the exceptions is succession into the position of the original contractor

by acquisition of the whole or part of the original contractor's business (regulation 72(1)(d)).

There will be a strong argument that this variation is permitted under the above regulation because Housing 21 acquired the relevant part of Notting Hill's business.

This is a high value contract for the purposes of the Council's Contract Standing Orders and is above the relevant threshold for the purposes of the PCR. Under CSO 24.4 and 24.5 novations need to be treated as modifications of the relevant contract and are permitted if they fall within one of the cases set out in Regulation 72. For the reasons stated above there is a strong argument that the proposed novation is permitted under this regulation. CSO 24 has therefore been complied with.

Because of the value of the contract, this is a "key decision" for the purposes of the Council's constitution and therefore needs to be included in the key decision list on the Council's website.

John Sharland, Senior solicitor (Contracts and procurement)
Dated 16 January 2023

Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Proposals and Analysis of Options

1. Hammersmith and Fulham want to provide consistent care and support services that provide little disruption to residents while giving due consideration to best value, by novating the current contracts to Housing 21. In the main residents will have the same care and support staff after the contracts are novated because it is expected that the majority of NHG staff will accept TUPE to Housing 21 who are an experienced provider of housing management and delivering care and support services. The residents will see little difference in their services other than the name of the organisation providing them
2. Elgin Close has thirty-six Extra Care flats. Extra Care is semi-independent living for those aged 55 and over. Residents have their own flats and tenancies. There is daily care and support on site with access to communal facilities such as a lounge and garden. The scheme provides a lunch time meal and activities for residents and is often a critical service along the pathway our older residents take before moving into a residential or nursing care home. It plays a key role in promoting independent living as it helps to keep residents living in the community for longer.
3. The Resource Centre provides up to twenty-five places each day for older residents in the borough to socialise and participate in activities. The centre helps reduce loneliness, encourages residents to engage with others and have

a lunch time meal together. They can participate in health and wellbeing exercises and have access to a range of advice and information.

Options Appraisal

4. *Option 1 – Novate the contracts to Housing 21.*
This is the Recommended option. The purchaser of Elgin Close, Housing 21, are an established Extra Care Service and support provider with schemes in other London Boroughs and country wide. They have previous experience of transferring services with little disruption to residents and staff who will be eligible for TUPE.
5. Due diligence with regards to the purchase of care provision and estate has been achieved through an open market competition by Notting Hill Genesis who are withdrawing from the extra care market and further due diligence by Hammersmith and Fulham did not highlight any issues.
6. The need for Extra Care accommodation is expected to grow in the future as we try to enable people to live in the community for longer. Hammersmith & Fulham have no block residential care homes (only nursing) and the cost to place residents will increase. Extra Care can provide an alternative to residential care for many residents. Access to day services enable older residents to share in community resources and reduces isolation. At the time of writing, Elgin Close has six voids, however it is considered high risk to vary the current contract during the acquisition process as we need to ensure continuity of service for our residents. There is a Void Management project group focussing on streamlining current process and filling voids. The contract can be potentially varied from 2024 onwards.
7. *Option 2 - Do not novate any Contracts.*
This is not a recommended option. Without novating the contracts residents will be left with no care and support service and Hammersmith and Fulham would be rescinding on the agreement with NHG and Housing 21 to transfer the current services.

Key benefits of the novated Extra Care Service and Resource Centre with Housing 21

8. Housing 21 is a large Extra Care and Support Provider (not for profit) with a record of good performance. Housing 21 operates in 240 local authority areas across England, managing over 22,000 Retirement Living and Extra Care properties and providing over 38,000 hours of social care each week.
9. 89% of Housing 21 Extra Care schemes are rated either 'Good' or 'Outstanding' by the CQC. Housing 21 has launched an industry-first training academy for Care Workers with ambitions to one day progress to management level. Their intelligence in the area of workforce development may be added value as the council can lean on some of their experience and expertise.

Contract Terms

10. The contract for Extra Care will run from February 2023 to March 2027 with the option to end the contract under the usual standard contract terms and break clauses.
11. The contract for the Resource Centre will run from February 2023 to February 2025 with the option to end the contract under the usual standard contract terms and break clauses which is currently subject to a review of all Day Services in the Borough.

Contract Management

12. The relationship between Housing 21 and the council will be managed within Adult Social Care Commissioning who will be responsible for performance monitoring of the contract. The novated services will continue to be monitored as now with regular contract management meetings, as well as announced and unannounced visit to Elgin Close
13. To enhance contract performance the use of Assistive Technology (AT), telehealth and telecare has been discussed with Housing 21 and this is a discussion that we will sustain in order to clarify how the current AT Elgin Close will be developed, collaborating with relevant partners including technology providers and our health colleagues. The view is that this will drive improvement in service quality and promote residents independent living through the life of the contract.

Reasons for Decision

14. Housing 21 have previous experience of mobilising services with short notice and collaborating with Local Authorities to establish referral and admission procedures. They are also the provider of the new Minterne Gardens Extra Care Service and will mobilise both contracts simultaneous to maximise the staffing potential for experience and skills.
15. The hand-over of Elgin Close in early 2023 to Housing 21 has been the result of a marketing exercise that consisted of all three components – The Building, Extra Care Services and Resource Centre. It followed a due diligence process by Housing 21 to determine a suitable provider with the approval of Hammersmith and Fulham

Equality Implications

16. EIA Not required
17. There are no anticipated negative implications for groups with protected characteristics, under the equalities act 2010, by the novation of this contract. As part of the commissioning relationship with the provider, quality of service

delivery and protected characteristic groups will be monitored regularly with a focus on actions required.

Risk Management Implications

18. The report recommends novating a contract for the provision of extra care housing and a resource centre from the incumbent provider, who no longer wishes to provide the service, to a new provider who has been selected following an open market process conducted by the current provider. The novation is in line with the objective of creating a compassionate council, ensuring that vital facilities and services continue to vulnerable residents.

David Hughes, Director of Audit, Fraud, Risk and Insurance, 20 January 2023

Climate and Ecological Emergency Implications

19. As this contract has been novated within a short timeframe following the existing provider exiting the market, there is limited opportunity to alter the specification.
20. The likely highest carbon impact is from energy to heat and power the building. The site is council freehold but within the council's 'scope 3' carbon footprint, meaning we do not have direct control over its energy sources or use. The council will engage with the leaseholder to take steps to reduce this footprint.
21. Emissions from operations have been minimised through local recruitment of staff and the use of accessible public transport. Climate Implications Toolkit attached.

Verified by Jim Cunningham, Climate Policy & Strategy Lead, 26 January 2023

ICT (required for any changes to IT systems)

22. The new contract will need to include Hammersmith and Fulham data protection and processing Schedule, compliant with the General Data Protection Regulation (GDPR). Data processed outside of Hammersmith and Fulham corporate network and systems, requires the provider to complete a (Cloud) Supplier Security Questionnaire.

Local Economy and Social Value

23. Housing 21 engages with the voluntary sector for extended activities and intergenerational projects. Connect with the community and local businesses to enhance resident experience and wellbeing.

24. Visits with equivalent extra care properties in London have demonstrated a clear commitment by Housing 21 to local staff employment and community engagement.
25. The commitment to staff progression and career development is evident by payment of the minimum wage and further financial enhancements on completion of enhanced skills through their industry first training academy for care workers.
26. Although with a novated contract the due diligence on social value has been done by Notting Hill Genesis and the scope for social value within a novated contract is limited, it is clear from the relationship with Housing 21 on the Minterne Gardens contract that Housing 21 social values align with Hammersmith and Fulham's.

Consultation

27. No public consultation was needed. Staff working with NHG have been given full access to Unions and information on TUPE as it relates to their current roles with NHG and transferring the services to a new provider.

LIST OF APPENDICES

Not applicable.