

<p style="text-align: center;">London Borough of Hammersmith & Fulham</p> <p style="text-align: center;">CABINET DECISION</p> <p style="text-align: center;">7 NOVEMBER 2016</p>	
<p>APPROVAL TO DIRECTLY AWARD THE ELM GROVE EXTRA CARE CONTRACT</p>	
<p>Report of the Cabinet Member for Health & Adult Social Care – Councillor Vivienne Lukey</p>	
<p>Open Report</p> <p>A separate report on the exempt part of the agenda provides exempt information in connection with this report.</p>	
<p>Classification - For Decision</p> <p>Key Decision: Yes</p>	
<p>Wards Affected: Hammersmith Broadway</p>	
<p>Accountable Director: Liz Bruce: Executive Director for Adult Social Care and Health</p>	
<p>Report Author: Julia Copeland Strategic Commissioner</p>	<p>Contact Details: Tel: 020 8753 1203 E-mail: Julia.Copeland@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1 This report seeks approval to directly award a contract to the company named on the exempt report for the Elm Grove Extra Care contract from 1 December 2016 to 31 May 2018.
- 1.2 Elm Grove is an Extra Care Housing service providing accommodation and 24-hour care and support to mostly older vulnerable people with a range of physical and mental health conditions. The service provided is good quality; popular and well-regarded by customers, their families, and other stakeholders.
- 1.3 The contract expires on 30 November 2016; the Council is currently developing its wider procurement strategy for future Extra Care services and

therefore it is recommended the Council directly awards a contract to the company named on the exempt report to enable service continuity to vulnerable residents at Elm Grove while the wider procurement strategy is developed and implemented.

- 1.4 It is also further recommended that a Core and Flexible hours' service model is piloted at Elm Grove during the period of the proposed direct award. This will enable council officers to develop a better understanding of how we can improve personal outcomes, choice and control and ensure compliance with the Care Act 2014 in future local Extra Care services.

2. RECOMMENDATIONS

- 2.1 To approve a prior waiver of the Contract Standing Orders of the requirement to seek competitive tenders to enable the Council to directly award a contract to the company named on the exempt report for the period 1 December 2016 to 31 May 2018.

3. REASONS FOR DECISION

- 3.1 It is in the Council's best interest to waive the Contract Standing Orders of the requirement to seek competitive bids because the direct award of a contract to the company named on the exempt report will give the Council time to develop and implement a wider procurement strategy for Extra Care housing (ECH) services to ensure improved service outcomes and value for money in the future.

4. PROPOSAL AND ISSUES

Background

- 4.1 ECH is housing designed to meet the needs of usually older people who require 24-hour care and support because of their physical, learning, mental ill-health or disability. People who live in ECH have their own self-contained home, their own front door, and a legal right to occupy the property.
- 4.2 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. The social benefits of ECH are well-documented and include:
 - Better quality of life
 - Access to leisure & social activities reduce social isolation and improve well-being;
 - Well-designed environment can be a home for life; older people can remain in their own home even as they require increasing care and support.

4.3 Currently, there are four ECH schemes in LB Hammersmith & Fulham as detailed in Table 2.

Table 2

Scheme name	No. people/ units	Unit Type	Location	Contract End Date
Elgin Close	39 people in 36 units	33 x 1 bed 3 x 2 bed	Shepherds Bush	30.6.27
Elm Grove	14 people/ units	14 x Bedsits	Hammersmith	30.11.16
Mary Seacole House	34 people in 32 units	32 x 1 beds	Ravenscourt Park	21.1.31
Olive House	38 people in 36 units	34 x 1 beds, 2 x bed	Sands End	1.12.18

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

4.5 Officers are proposing the Council pilots a new service model at Elm Grove during the period 1.12.16 to 31.5.18 as set out in section 4.8-4.10.

Future ECH Procurement Strategy

4.6 To achieve the best outcomes for residents and the Council, officers are developing a wider procurement strategy for ECH services. A SWOT¹ analysis indicates the likely recommended option will be to procure an ECH Framework Agreement or Dynamic Purchasing System (DPS) to enable future ECH contracts to be called-off when required.

4.7 Officers will be seeking approval for this wider procurement strategy on 5 December 2016 from LBHF Cabinet. If approved, the Framework Agreement or DPS is anticipated to be available from July/August 2017.

Future Service/Contract Models

4.8 All existing ECH services have block contract arrangements. This type of contract is no longer the best model for ECH services as it does not support the choice and control agenda as required by the Care Act 2014 nor does a block contract offer the flexibility required to be responsive, transparent, and person-centred.

4.9 An options appraisal indicates a Core and Flexible (add-on) service is likely to be the optimum model to achieve improved service outcomes; increase customers' choice and 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. This proposed model of care and support will be new to ECH in LBHF and officers recommend we pilot this model at Elm Grove during the period of the proposed direct contract award.

¹ Strengths, Weaknesses, Opportunities, Threats

- 4.10 The proposed Pilot Core and Flexible service at Elm Grove will comprise the following services:

Core Element	Flexible Element
<p>The core element will be provided by the company named on the exempt report and ensures 24-hour staffing on site always. Duties include:</p> <ul style="list-style-type: none"> • Quality assurance • Assessment, care & support planning • Social inclusion • Medication management • Family & professional liaison • Health & safety • Responding to emergencies and unplanned care needs 	<ul style="list-style-type: none"> • Planned personal and domiciliary care hours for individual customers and based on assessed eligible needs. • Customers can use their personal budget to purchase care from the company named on the exempt report or elsewhere.

Quality and Customer Feedback

- 4.16 The contract is delivering good outcomes. Recent customer feedback confirmed high levels of satisfaction with the service.

Proposed Procurement Timetable for Elmgrove

- 4.17 The timetable for a future procurement for Elm Grove is set out below:

Activity	Date
Cabinet approval of wider ECH procurement strategy	5.12.16
Establishment of Framework or DPS (if approved)	July/August 2017
Preparation of Elm Grove call-off documentation	August 2017
Issue Tender	Sept 2017
Tender submission date	Oct 2017
Tender evaluation/governance	Oct/Dec 2017
Tender Award	Jan 2018
Service implementation	Jan – April 2018

- 4.18 It should be noted that prior to any subsequent recommendations to Cabinet regarding the future commissioning and procurement strategy for Elm Grove, a further review of the service will be necessary during the period of the proposed direct award to understand the Council's requirement at that time.

5. OPTIONS AND ANALYSIS OF OPTIONS

Do Nothing

- 5.1 The Elm Grove contract is expiring on 30 November 2016. Previously it was considered that Elm Grove would not be included in the future ECH provision

in H&F after 2016, however this is no longer the case and the service is popular and well-regarded by customers and stakeholders. There will be a risk to vulnerable residents if the service is not extended. Therefore, this option is not recommended.

Extend the contract for 6-months and close the service

5.2 As the Elm Grove contract is ending there is the opportunity to consider if there is an ongoing requirement for the service. If the service were to be closed the contract would need to be extended by at least 6 months to enable the decant of Elm Grove.

5.3 A recent review of the service has highlighted high demand for the service and there is insufficient capacity in the other ECH schemes to be able to easily move Elm Grove residents. The service is achieving good outcomes and is popular with residents; family and stakeholders. For these reasons this option is not recommended.

Make a direct award of a contract to the company named on the exempt report to continue services on revised terms to 31 May 2018

5.4 For the reasons set out in section 4, it is proposed to make a direct award of a contract to the company named on the exempt report.

6. CONSULTATION

6.1 No formal consultation has been carried out regarding the recommendations in this report. However, feedback from residents in Elm Grove and other ECH schemes gained from a recent customer engagement exercise has been used to inform the recommendations in this report. The company named on the exempt report agrees with the recommendations in this report.

7. EQUALITY IMPLICATIONS

7.1 We do not consider there will be any adverse equality implications for protected groups because of the proposals in this report. Overall the impact on older people is adjudged as neutral or positive as service continuity and improvements will be secured and more personalised services delivered.

8. LEGAL IMPLICATIONS

8.1 The ECH services described in this report are classified as Social and Other Services under the Public Contracts Regulations 2015 (the Regulations). The Council fulfilling its transparency and non-discriminatory obligations is permitted to undertake appropriate procedures to arrange delivery of such services including a direct award. In addition, the value of the contracts is below the threshold of £625,000 stipulated in the Regulations for these types of contracts. This sub-threshold value further reduces the degree of Regulation that applies to awarding the contracts to the extent that there is no obligation under the Regulations to advertise the contracts unless there is reason to believe that EU wide cross border interest is there in such services.

- 8.2 It cannot be said with certainty that there is no risk of challenge, however any cross-border interest in these contracts is unlikely, i.e. European providers would not be interested in bidding. Services of the type described in this report offering ECH services tend to be delivered by local providers which do not attract cross border interest.
- 8.3 In mitigation, any risk of a successful procurement challenge is reduced since this is an interim arrangement and that the direct award is to permit continuity of services whilst the requirements of the Care Act 2014 are implemented and a strategic review of ECH services is undertaken. During the proposed extension period, a competitive tender will be conducted with new contract expected to be awarded in early 2018.
- 8.4 A waiver from the Contract Standing Orders is needed from the requirement that competitive tenderers be obtained prior to award. The report mentions that the Council has statutory obligations to continue to deliver such services under the Care Act 2014 and it is justifiable to seek a waiver of the Contract Regulations for value for money and continued satisfactory service delivery reasons to extend the current contract for 18 months while ECH service requirements are assessed from such pilot prior to undertaking a competitive procurement.
- 8.5 Implications verified/completed by: Babul Mukherjee, Senior Solicitor (Contracts), 02073613410

9. FINANCIAL IMPLICATIONS

- 9.1 As set out on the exempt part of the agenda.

10. IMPLICATIONS FOR BUSINESS

- 10.1 As set out on the exempt part of the agenda.

11. PROCUREMENT IMPLICATIONS

- 11.1 The author of the report is seeking approval to make a direct award of a contract to the company named on the exempt report for the provision of extra care services at Elm Grove. The proposed contractual arrangements would run from 1st December 2016 to 31st May 2018, a duration of 18 months and have a total value of £449,861.
- 11.2 The services to be provided under the proposed contractual arrangements fall under the category of Social and other services as defined by the Public Contracts Regulations 2015. Such services are only subject to the provisions of the regulations when they exceed the financial threshold of £589,148. Accordingly, the proposed contractual arrangements do not fall under the Regulations and are therefore classified as “unregulated”.

- 11.3 H&F Contract Standing Orders Section 3: Waivers and Exemptions provides for the requirement to expose a service to commercial competition to be waived if one of five grounds is satisfied:

A prior written waiver to these CSO's may be agreed by the Appropriate Persons if they are satisfied that a waiver is justified because it is in the Council's overall interest.

- 11.4 It is considered that the author of the report has demonstrated that a direct award of a contract to the company named on the exempt report is in the council's overall interest. It is further noted that the author has demonstrated the services provided by the company named on the exempt report represent value for money and is delivering good outcomes for residents.
- 11.5 As the value of the waiver is greater than £100,000 approval is requested from Cabinet.
- 11.6 Implications completed by: Tim Lothian, Procurement Officer 020 8753 5377 and verified by Joanna Angelides, Procurement Consultant, 0208 753 2586.

12. RISKS

- 12.1 The Adult Social Care Department maintains a register of risks which are reviewed periodically by the Senior Leadership Team. Market Testing is a Strategic risk on the Council's Shared Services Risk Register, risk number 4. This is described as delivering high quality commissioned services at the best cost to the taxpayer, compliance with public procurement regulations and potential sanctions where this has not been done.
- 12.2 Implications verified by Mike Sloniowski Shared Services Risk Manager Telephone 02087532587

BACKGROUND PAPERS USED IN PREPARING THIS REPORT

None