

Report of Deputy Director Integrated Commissioning

Report to Director of Adults and Health

Date: 19th February 2020

Subject: Request to undertake direct awards, in accordance with CPR 9.5, in three instances to enter into 12-month contracts with Methodist Homes Association for extra care at Assisi Place and Yew Tree and Rosewood Court and Anchor Hanover for extra care at The Laureates

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- The approach Leeds City Council has taken when commissioning extra care schemes has changed and adapted resulting in the Leeds Model for Extra Care, first issued in 2014.
- The model moves away from the previous block contracting approach of paying a fixed annual amount to providers to a system where the Council pays the provider for the billed hours of planned care and support. This model was first commissioned at Leeds City Council's flagship extra care scheme, Wharfedale View, and is the basis for all future new extra care contracts.
- There continues to be two approaches to commissioning extra care within Leeds with new schemes being procured in line with the new model and the existing block contracted schemes continuing under the old method. These block contracted schemes include Assisi Place, The Laureates and Yew Tree and Rosewood Court.
- While the end service delivery is similar, there are key factors that make transitioning the block contracts to the new model a more complex matter. One such factor is the wellbeing component and how it is managed differently when compared to the block model, with income drawn from each apartment via direct arrangements between the care provider and the tenants. In reaching a final

solution, commissioning officers will seek to minimise impact on existing tenants while ensuring sustainable services that evidence value for money.

- All three contracts have been subject to repeated, short term waivers. However the circumstances at all three schemes are such that there is no scope to go out to competition. Short term contracts continue to be the preferred method of engagement, with commissioners seeking to set in place longer term arrangements with the existing providers, once a finalised approach to bringing the block contracts in line with the Leeds Model for Extra Care has been agreed.
- The grounds for direct awards are based on the history of how the schemes were first developed, the way Leeds City Council accesses services through nomination rights and the nature of extra care scheme services. This does not impact on individual choice, where a tenant can choose their own care provider if they wish to do so but cannot opt for a different onsite Care Quality Commission (CQC) registered provider to cover the 24-hour staffing presence.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- Each contract will contribute towards the Best City Priorities of 'Health and Wellbeing' and 'Age-Friendly Leeds'.
- All three contracts work towards achieving the outcomes: 'Be safe and feel safe'; 'Enjoy happy, healthy and active lives', and; 'Live with dignity and stay independent as long as possible'.

3. Resource Implications

- This report covers three separate contract recommendations. The total values for each decision are:
 - Assisi Place at £325,515 for the 12-month period.
 - The Laureates at £131,000 for the 12-month period.
 - Yew Tree and Rosewood at £456,416 for the 12-month period.
- Officer time will be necessary in order to monitor and review each contract prior to any recommissioning. This will be met through existing capacity from within the Adults and Health Integrated Commissioning Team, along with officer time from support areas such as Finance and Procurement and Commercial Services as appropriate.

Recommendations

- a) The Director of Adults and Health is recommended to approve the direct award of a 12-month contract in accordance with CPR 9.5 to Methodist Homes Association for extra care services at Assisi Place. This contract is to commence 1st April 2020 and is for a total value of £325,515.00.
- b) The Director of Adults and Health is recommended to approve the direct award of a 12-month contract in accordance with CPR 9.5 to Methodist Homes Association for extra care services at Yew Tree and Rosewood Court. This contract is to commence 1st April 2020 and is for a total value of £456,416.00.
- c) The Director of Adults and Health is recommended to approve the direct award of a 12-month contract in accordance with CPR 9.5 to Anchor Hanover for extra care

services at The Laureates. This contract is to commence 1st April 2020 and is for a total value of £131,000.00.

- d) Officers on behalf of Adults and Health Integrated Commissioning and Procurement and Commercial Services will complete all of the actions necessary to ensure each of these contracts is in place for the 1st April 2020.

1. Purpose of this report

1.2 To seek approval from the Director of Adults and Health to undertake the direct award of three contracts in accordance with CPR 9.5 to award 12-month contracts to:

- Methodist Homes Association in relation to extra care services for our nominations to apartments at Assisi Place (45 apartments out of 45 in total);
- Methodist Homes Association in relation to extra care services for our nominations to apartments at Yew Tree and Rosewood Court, and (60 apartments out of 65 in total);
- Anchor Hanover for extra care services for our nominations to apartments at The Laureates (16 apartments out of 62 in total).

1.3 All three contracts are to commence from the 1st April 2020 and end 31st March 2021. During this time commissioning officers will seek to finalise and gain approval for an agreed model for future contractual arrangements with the intention of setting in place longer term arrangements using the Negotiated Procedure Without Prior Publication, where appropriate. This is on the basis that in each instance there is genuinely no competition such that there is only one particular provider available to meet the Council's specific requirements in light of how the Council's nominations provide access into the existing services at each extra care scheme site.

2. Background information

2.1 The three extra care schemes covered by this report vary in terms of where they are sited within the city, their overall size and the number of apartments to which Leeds Adults & Health hold nomination rights. Arrangements between Leeds City Council and the providers at each scheme are longstanding and predate the Leeds Model for Extra Care first introduced at Wharfedale View in Yeadon. Table 1 provides a summary picture for each of the three schemes, all of which were developed through engagement with Leeds City Council and utilising Council land.

Scheme	Assisi Place	The Laureates	Yew Tree & Rosewood
Site	Hunslet	Guiseley	Moor Allerton
First Opened	2011	2009	2004
Apartments	45	62	65
Nominations	45	16	60
Hours	458	203	733
Overall CQC Rating	Good (15.01.19)	Good (12.12.17)	Good (02.06.18)

Table 1. Overview of each of the three extra care schemes

2.2 The Leeds Model for Extra Care, as detailed in the Summary, is the basis for contracting arrangements for all four new extra care schemes being developed as

part of Phase 1 of the extra care programme of work and will be the basis for contracting at all new schemes going forward.

3. Main issues

- 3.1 Extra care services at Assisi Place, The Laureates and Yew Tree and Rosewood Court have been the subject of waivers as commissioners seek to establish an ideal way forward for contracting these services. This is a complex topic due to key differences between the block purchased approach and The Leeds Model for Extra Care that is built around a devolved payment for the actual care delivered. In recognition that there is no scope for competition due to technical reasons, commissioning officers are seeking to make direct awards.
- 3.2 Commissioning Officers have engaged in work in evaluating how the Leeds Model for Extra Care operates in comparison to the block approach. This work spans all of the block contracted schemes covered by this report. This work has involved ensuring that the Directorate Leadership Team (DLT) for the Adults and Health Directorate has been engaged around seeking solutions to key areas that differ between the two different approaches to commissioning extra care in the city.
- 3.3 All reports produced in connection to this work have stipulated that commissioning officers would, wherever possible, endeavour to ensure: a zero impact on existing tenants; provide evidence that value for money is achieved, and; ensure the Council's commitment to the Unison Ethical Care Charter and a real living wage is included. These commitments continue to remain relevant.
- 3.4 Commissioners will be seeking to set long-term contracts in place with the existing providers for each of the three schemes once the way forward has been agreed. This has been previously covered in requests to utilise Regulation 32 of the Public Contracts Regulations. The basis for this approach in all three instances is that LCC's access to services at each scheme is through nomination agreements to apartments that are at sites owned and staffed by the respective providers. Individual service users could opt to receive support from alternative providers if they so wish, but as a general rule individuals opt for the services offered by the provider registered with the Care Quality Commission at the scheme. All previous waivers requested for each of these schemes have all been on a relatively short term basis. Short term arrangements remain the preferred option over longer term contracting options until such a point that a contracting model that offers a fair and equitable way forward can be agreed. This finalised model would form the basis for negotiations with the providers in each instance.
- 3.5 As all of the total values of each of these individual decisions is beneath the Key Decision threshold of £500,000.00, each of these decisions will be taken as a Significant Operational Decision. Moreover, the value of each of the individual contracts is below the threshold set down by the Regulations for social and other specific services, currently set at £663,540.00. All of these projects are delivered from within the Leeds Local Authority area, in which each of the providers has extensive knowledge about the local community and the people that their services are delivered to. These three contracts are not considered to be of interest to organisations based in other EU member states based on their value, and the requirement to support people with the delivery of Extra Care services.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The Executive Member for Adults, Health and Wellbeing has been briefed as of 6th February 2020 on the proposals to set in place contracts via direct awards to ensure arrangements at Assisi Place, The Laureates and Yew Tree and Rosewood Court continue on contract.
- 4.1.2 Any future ensuing commissioning activity or changes to service arrangements will involve consultations with the providers, service users, carers and other stakeholders as identified as part of any review.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An Equality and Diversity Impact Assessment Screening Tool has been completed and is included at Appendix 1. Due to the service nature being identical for each recommendation, one assessment has been completed on extra care services. This assessment demonstrates that the service meets the desired equality requirements.
- 4.2.2 Appropriate policies and procedures are in place with the providers for each scheme.

4.3 Council policies and the Best Council Plan

- 4.3.1 The work of extra care services helps contribute to all of the outcomes stated in the current Leeds Joint Health and Wellbeing Strategy. The nature and ethos of the services contribute to: people living longer and healthier lives; helping people to live full, active and independent lives; ensuring that people's quality of life is improved by access to quality services; involving people in decisions made about them, and; helping people to live in healthy and sustainable communities.
- 4.3.2 The main domains of the Best City Priorities as stated in the Best Council Plan 2019/20-2020/21 that this extension contributes towards are 'Health and Wellbeing' and 'Age-Friendly Leeds'. The contract works towards achieving the outcomes: 'Be safe and feel safe'; 'Enjoy happy, healthy and active lives', and; 'Live with dignity and stay independent as long as possible'.

Climate Emergency

- 4.3.3 In March 2019 Leeds City Council unanimously declared a climate emergency. In response to this emergency the Council is working towards carbon neutrality by 2030. The plan to achieve this goal includes: reducing pollution and noise; improving air quality, and; promoting a less wasteful, low carbon economy. Extra care services such as the ones covered in this report contribute towards this by having site-based care teams deliver care and support to individuals without the need for staff to drive between visits or utilise multiple vehicles to provide visits to individuals living within close proximity of one another.

4.4 Resources, procurement and value for money

- 4.4.1 The total value of each decision covered by this report is:

- Assisi Place at £325,515 for the 12-month period.
- The Laureates at £131,000 for the 12-month period.
- Yew Tree and Rosewood at £456,416 for the 12-month period.

4.4.2 The funding to meet each of these commitments is included within the 2020/21 budget.

4.4.3 When considering value for money, the most relevant comparison for extra care is a residential-type service. This is due to both services sharing commonalities around staffing costs, with both extra care schemes and residential homes requiring adequate care staffing to ensure a feasible 24-hour presence. In Leeds in 2019/20 the standard weekly cost of residential care to the Council is £539 per person. The cost per person per week for comparison at each of the schemes covered by this report is: £249.80 at Assisi Place; £193.47 at The Laureates, and; £194.59 at Yew Tree and Rosewood.

4.5 **Legal implications, access to information, and call-in**

4.5.1 The decisions highlighted in this report will be taken by the Director of Adults and Health in line with the officer delegation scheme as detailed in Part 3 of the Council's Constitution.

4.5.2 As the values of each contract is under £500,000 but exceeds £100,000 this report is submitted as a significant operational decision and is not subject to call-in.

4.5.3 Awarding a new contract direct to a provider in this way without seeking competition could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that the Council has not been wholly transparent. In terms of transparency it should be noted that case law suggests that the Council should always consider whether contracts of these values should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising would be appropriate. In particular, consideration should be given to the subject-matter of each contract, the estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc) and the geographical location of the place of performance.

4.5.4 The Director of Adults and Health has considered this and, due to the nature of the services being delivered and the requirement to be physically located in Leeds, is of the view that the scope and nature of the services is such that it would not be of interest to providers in other EU member states.

4.5.5 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.

4.5.6 There is the potential risk of challenge that there are no real technical reasons justifying the direct contract award, and that the Council is simply seeking to

circumvent the application of procurement rules. However, due to the reasons set out in Section 3 of this report this risk is perceived to be low.

- 4.5.7 These comments should be noted by the Director of Adults and Health in making the final decision as to the award of this contract being the best course of action for the Council and that in doing so it represents best value for the Council.

4.6 Risk management

- 4.6.1 If the recommendations to enter into 12-month contracts for each scheme is not approved there is a risk that the services would continue but off-contract, including all the risks that come with such a scenario.
- 4.6.2 The possibility exists that services could cease or be disrupted and service users will no longer be able to access support. This would impact on individuals who have been assessed as requiring care and support under the Care Act 2014.
- 4.6.3 There is a risk that the combined value of all of these decisions could be considered to be over the Significant Operational Decision threshold and therefore a Key Decision. However, as demonstrated throughout this report, the decision maker will be making three individual decisions in relation to three different contracts, based on three individual recommendations. All of these recommendations have been provided within one report as they all relate to extra care services, with the same rationale regarding the recommendation to award them each with an interim contract. Moreover, by presenting the recommendations in this manner, this demonstrates transparency regarding all of these decisions taking place.

5. Conclusions

- 5.1 To accommodate the continuing work to reach a fair and equitable contracting solution for extra care at these three legacy schemes it is necessary to make direct awards in accordance with CPR 9.5. This will help to ensure that arrangements at Assisi Place, The Laureates and Yew Tree and Rosewood Court remain on contract as the current contracts expire on the 31st March 2020. The additional 12-months will allow for further options to be discussed and presented to DLT and for negotiations to then be completed with each provider.

6. Recommendations

- 6.1 The Director of Adults and Health is recommended to approve the direct award of a 12-month contract in accordance with CPR 9.5 to Methodist Homes Association for extra care services at Assisi Place. This contract is to commence 1st April 2020 and is for a total value of £325,515.00.
- 6.2 The Director of Adults and Health is recommended to approve the direct award of a 12-month contract in accordance with CPR 9.5 to Methodist Homes Association for extra care services at Yew Tree and Rosewood Court. This contract is to commence 1st April 2020 and is for a total value of £456,416.00.
- 6.3 The Director of Adults and Health is recommended to approve the direct award of a 12-month contract in accordance with CPR 9.5 to Anchor Hanover for extra care services at The Laureates. This contract is to commence 1st April 2020 and is for a total value of £131,000.00.

6.4 Officers on behalf of Adults and Health Integrated Commissioning and Procurement and Commercial Services will complete all of the actions necessary to ensure each of these contracts is in place for the 1st April 2020.

7. Background documents¹

7.1 None.

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.