

Request approval to enter into a direct award, in accordance with CPR 9.5, with Anchor Hanover Group for the provision of extra care services at The Laureates from 1st April 2023 and separately to utilise the available extension for the current contract with Creative Support for the provision of extra care services at Hampton Crescent from the 1st November 2022 to 31st March 2023.

Date: 28<sup>th</sup> September 2022

Report of: The Deputy Director of Integrated Commissioning

Report to: The Director of Adults and Health

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

The current block contractual arrangement with Creative Support for extra care service provision at Hampton Crescent, Richmond Hill, Leeds LS9 8NH (DN575953) is due to end on the 31<sup>st</sup> October 2022. This report is seeking approval to utilise the built-in extension period to continue the contract up until the 31<sup>st</sup> March 2023 in order to accommodate discussions to establish a new contracting period while work is completed on the Leeds Model of Extra Care and the wider home care service review. The value of this extension is currently £128,244.58.

The current block contractual arrangements with Anchor Hanover Group for extra care service provision at The Laureates, Guiseley, Leeds LS20 9BR (51610) is due to end on the 31<sup>st</sup> March 2023. This report is seeking approval to enter a new contract as a result of a direct award utilising Contracts Procedure Rule (CPR) 9.5, with the current service provider at the scheme for a period of two years with the option to extend for a further period of up to 12 months in any combination. The annual value of this contract and the associated care provider is currently £137,990.00.

## Recommendations

- a) The Director of Adults and Health is recommended to authorise the utilisation of the available extension for a period of 5-months to allow for the continued delivery of extra care services by Creative Support at Hampton Crescent from the 1<sup>st</sup> November 2022 to the 31<sup>st</sup> March 2023. The value of this decision is £128,244.58.
- b) The Director of Adults and Health is recommended to approve the direct award of a two-year contract with the option to extend for a further period of up to 12 months in any combination to Anchor Hanover Group for the provision of extra care services at The Laureates in accordance with CPR 9.5 on the grounds that they are genuinely the only provider that can meet the Council's specific requirements. The total value of this decision being £413,970 based on the current annual value of £137,990, should the 12-month extension be utilised,

which will be subject to a separate decision at the appropriate time. The value of the contract for the initial two-year period will be £275,980.

- c) Officers on behalf of Adults and Health Integrated Commissioning and Procurement and Commercial Services will complete all the actions necessary to ensure the extension with Creative Support is in place for the 1<sup>st</sup> November 2022 and the contract with Anchor Hanover is in place for the 1<sup>st</sup> April 2023. Commissioning officers with support from the Service and Transformation Team, Legal, Housing Leeds, the Equality Team, Social Work and the Occupational Therapists will continue to finalise work with the goal of bringing both of these schemes in line with the Leeds Model of Extra Care and the wider work around home care commissioning.

## **What is this report about?**

- 1 Both extra care schemes covered by this report were developed between Leeds City Council (LCC) and Anchor Hanover Group. Arrangements saw Anchor Hanover Group developing the schemes on former LCC land and, as part of these arrangements, LCC having nomination rights to apartments as part of us ensuring we have a return on our investment and to ensure access to affordable rented extra care apartments within the city. At both schemes the onsite care provision was covered by Anchor Hanover Group, in line with their business model for delivering extra care. This continues to be the arrangement at The Laureates, however at Hampton Crescent Anchor Hanover Group retracted from the market following an in-house national service review that included extra care schemes. Anchor Hanover Group's service review took place circa 2013 and resulted in Creative Support being established by LCC as the onsite provider at Hampton Crescent via a competitive procurement process. This has remained the arrangement ever since in line with the original contract and then the expressed wishes of the clients living at the scheme, all of whom to date have stayed with the onsite provider as their provider of choice.
- 2 Hampton Crescent first opened in 2007 and is situated in the Burmantofts and Richmond Hill Ward. The scheme consists of 40 apartments to which LCC holds 100% nominations rights. The next to open was The Laureates in 2009 in the Guiseley and Rawdon Ward and consists of 62 apartments to which LCC holds nominations rights to 16 apartments. The onsite care team at The Laureates services all apartments, including the 16 where LCC holds nomination rights. The nominations agreements for both schemes is for 20 years from date of practical completion of the site being developed. At the end of that period full nomination rights would either go to the scheme operator Anchor Hanover Group for them to fill apartments as they see fit or for a new agreement to be negotiated.
- 3 The current care contract for The Laureates, operated by Anchor Hanover Group is due to expire on the 31<sup>st</sup> March 2023. This contract was a short term, 12-month agreement. The contract for Hampton Crescent was from the 1<sup>st</sup> November 2021 to the 31<sup>st</sup> October 2022 with the option to extend for up to a further six months in any combination. Both contracts were entered into via direct awards with the view to completing negotiations with both providers around adopting a new way of commissioning services over longer contracts based on the Leeds Model of Extra Care at each scheme.
- 4 Following the commencement of this work by Commissioning officers it was established early in the process that additional developments around the model were needed before it would be possible to roll it out across the existing block arrangements. Since the last award of these contracts commissioning officers have commenced a review of the Leeds Model of Extra Care. This includes completing a full Equality Impact Assessment and securing input from Legal Services, which has recently been completed on the existing draft of the proposed model. All of

this forms part of the wider work to ensure the robustness of the model. A presentation around the current nature of extra care in the city has been held with Service Delivery Managers and this has since led into engagement with social workers and occupational therapists to further establish the role of extra care within the city. Further engagement and work are taking place to bring the existing model up to date, including a market and demand review. Finally, a project board chaired by the Deputy Director for Integrated Commissioning is being established to oversee the delivery of this work, amongst other extra care projects.

- 5 At the same time as reviewing the Leeds Model of Extra Care work has commenced around the wider approach to commissioning home care in the city, which itself will most likely introduce changes that would also need to be considered when establishing new longer term contract arrangements with extra care providers. The changes to be introduced as part of the wider home care work are anticipated to be finalised by Spring 2024. The implication of the home care project, as well as the work to update and re-establish the Leeds Model of Extra Care, are the reasons as to why it is considered that awarding a longer-term contract utilising CPR 9.5 is the most appropriate route forward at this juncture.
- 6 The contract extension and the direct award of the contract requested in this report will provide commissioning officers with the time necessary to finalise work on both the Leeds Model of Extra Care and the wider home care review and then commence negotiations with the onsite care providers at all legacy extra care schemes, with the aim of establishing new agreements in line with the new models. Negotiations are to take place with the existing providers at these schemes in the first instance, as they are either part of the service model which LCC makes nominations into, or they are the confirmed provider of choice by the service users accessing their services. Individual choice around service provider can still be expressed at a service user level with individuals free to choose a different provider for their planned care and support wherever they wish to. The current mechanism to manage this through block contract arrangements is to issue the service user with a direct payment and adjust the block contract value accordingly.
- 7 The extension with Creative Support and directly awarded contract with Anchor Hanover Group will continue the existing contract arrangements at both schemes. The ongoing longer-term negotiations in relation to extra care will focus on how care time is defined and purchased. The end care experience should not be negatively impacted through this work. The goal is to bring all extra care schemes under the same purchasing model and for that model to work in line with wider home care arrangements. This should bring improvements for service users and not have any negative impacts.

### **What impact will this proposal have?**

- 8 The extension of the contract with Creative Support in respect of Hampton Crescent will allow commissioning officers the necessary time to negotiate and award a new direct award contract to commence from 1<sup>st</sup> April 2023 for a period of two-years with the option to extend for up to 12-months in any combination. This direct award is subject to approval of the Key Decision of the proposal as detailed in a further report going to delegated decision panel on the 28<sup>th</sup> September 2022 for approval.
- 9 The direct award of the contract to Anchor Hanover Group in respect of The Laureates as requested here will ensure the continued provision of planned care and support alongside the 24/7 presence of care staff at both schemes.
- 10 The extension requested for Hampton Crescent will allow Commissioning Officers the necessary time to complete and make a direct award of contract that will see the service

continue in place for up to a further two years with the option to extend for a further period of up to 12 months in any combination. The grounds for the direct award to Anchor Hanover for the onsite care provision at The Laureates is due to the nature of how LCC accesses the apartments the care service relates to. This is done through a nominations agreement to the apartments through which LCC gains access to the service which covers both the 16 nominated apartments plus the remaining 46 private apartments.

- 11 Current tenants have the choice to opt for their own provider outside of the block contracting arrangement at both schemes. In both instances the tenants have opted to continue to receive care and support from the onsite provider. The requests made here will ensure these arrangements continue.
- 12 The arrangements covered by this report will ensure that at both schemes the current provider remains as one of the provider options available to existing and future tenants. This will help contribute to ensuring a smooth transition to a new model by working with the existing, provider to help establish this.
- 13 Care and support at both schemes continue to be of a high quality. The Care Quality Commission (CQC) assessed both services to be good overall, with these ratings last verified on the 4<sup>th</sup> August 2022 when the CQC last undertook a desktop review of the data available to them.

#### **How does this proposal impact the three pillars of the Best City Ambition?**

Health and Wellbeing       Inclusive Growth       Zero Carbon

- 14 The work of extra care services helps contribute to all 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.
- 15 The main domains of the Best City Priorities as stated in the Best Council Plan 2020-2025 that this report 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'.

#### **What consultation and engagement has taken place?**

Wards affected:

Have ward members been consulted?       Yes       No

- 16 Both the extension and the direct award of the contract requested in this report seek to maintain the current services with no disruption. As such ward members have not been consulted on the proposals.
- 17 As part of the contract management process for both schemes, the feedback collated by the provider from service users, carers and other stakeholders has been screened by the contracting team as part of monitoring and quality assurance. Engagement will continue in the

form of monitoring for the duration of the extension with Creative Support and the contract with Anchor Hanover Group.

18 Further consultation and engagement will take place with all relevant stakeholders as part of the ongoing plans as commissioning officers work to revise current arrangements and bring them more in line with the Leeds Model of Extra Care.

19 The Executive Member for Adults Social Care, Children's Social Care, and Health Partnerships was briefed on these decisions on the 4th August 2022.

### **What are the resource implications?**

20 Budget has been allocated within the 2022/23 financial year and is in place for each contract. This budget provision ensures there is adequate funding to cover each scheme as follows:

- Hampton Crescent at a current annual contract value of £307,787 which equates to £128,244.58 for the 5-month extension period.
- The Laureates at a current annual contract value of £137,990

21 The listed contract values are subject to further change in the 2022/23 financial year as Commissioning Officers complete negotiations to ensure all contracts covering planned care and support reflect the current commitment to a minimum hourly rate for care workers of £10.50. These costs are likely to increase each year in line with inflation. The changes to the contract values will be the subject of a future report but in all instances officers will endeavour to ensure that uplifts are within the allocated budget parameters.

22 There will be significant resource implications in terms of monitoring and reviewing the contracts to ensure the services continue to meet the necessary outcomes and that they deliver best value. Resources will also be needed to undertake negotiation discussions with the providers for the two schemes as part of ongoing work to set in place longer term agreements. These resources will be provided from within existing hours in the Leeds Adults and Health commissioning and contracts teams.

23 This is considered to be essential spend as the payments are the individual budgets of the specific tenants which are being used to provide their individual care and support needs.

### **What are the key risks and how are they being managed?**

24 If the recommendations are not approved there is a risk 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.

25 If the work re-commissioning and re-designing Home Care is not completed within the maximum 3-year time frame that the requested direct award is for then there is a risk that further requests will need to be made. Officers will continue to liaise between teams to help minimise the risk of any delays.

### **What are the legal implications?**

26 As the value of both decisions contained within this report is over £100,000 but below £500,000 each one is a Significant Operational Decision and are therefore not subject to call-in. This report does not contain any exempt or confidential information under the Access to Information Rules.

- 27 The contract extension with Creative Support for Hampton Crescent is made in line with the previously authorised contract award, approved on the 22<sup>nd</sup> September 2021, and the terms and conditions of the current contract with Creative Support.
- 28 With regards the direct award of contract to Anchor Hanover Group for extra care services at The Laureates, the contract value is below the threshold for procurement under the Light Touch Regime under the Public Contracts Regulations 2015, however it is subject to the CPRs. CPR 9.5 permits that: *“Where the relevant Director considers there is genuinely no competition such that only a particular organisation or provider can meet the Council’s specific requirements (e.g. when commissioning a piece of art) a waiver of CPRs 9.1 and 9.2 need not be obtained. However, before making any decision the Authorised Officer must consult with PACS and the lack of competition must be formally evidenced and approved by the relevant Director before the contract is entered into.”* The request to enter into a direct award contract with Anchor Hanover Group for the provision of extra care services at The Laureates is made on the grounds that they are genuinely the only provider that can meet the Council’s specific requirements for extra care services at The Laureates. The scheme is located at a site which LCC holds nomination rights and therefore LCC is tied to the provider at the site, and third parties are not permitted to run service provisions within the site. Individual personal choice around service provider is also a factor in that all current service users have opted to choose Anchor Hanover as their provider. Notwithstanding this, 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 context set out in paragraphs five, six, seven, ten and eleven of this report this risk is perceived to be low.
- 29 There is also 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.
- 30 Although there is no overriding legal obstacle preventing the course of action set out in this report, the above comments should be noted. In making their final decision, the Director of Adults and Health should be aware of the risk of challenge to the Council and be satisfied that on balance the course of action chosen represents Best Value for the Council.

## **Options, timescales and measuring success**

### **What other options were considered?**

- 31 The extension and direct award of contracts for the periods requested are the most feasible options as they help continue existing arrangements and ensures continuity for all service users engaging with the care providers at the two schemes. The direct award supports the further intentions of utilising Regulation 32 of the Public Contracts Regulations 2015 (Negotiated Procedure without Prior Publication of a Notice) in order to establish longer term, more sustainable contracts moving forward once the ongoing review of the Leeds Model for Extra Care has been completed and the wider work around home care delivery within Leeds finalised.

### **How will success be measured?**

- 32 Commissioning officers working alongside colleagues in Procurement and Commercial Services will put in place the extension and direct award of the contract in good time, with the extension

in place from the 1<sup>st</sup> November 2022 and the direct award contract in place for the 1<sup>st</sup> April 2023.

- 33 Ongoing monitoring and evaluation of the contracts will ensure the services covered continue to meet the necessary outcomes and that both deliver best value. Commissioning and contracts officers within Leeds Adults and Health Integrated Commissioning Team will oversee the monitoring activity.

**What is the timetable and who will be responsible for implementation?**

- 34 If the recommendations for both the contract extension and direct award are approved commissioning officers and officers from Procurement and Commercial Services will commence work immediately to initially ensure the implementation of the extension with Creative Support for Hampton Crescent before the expiry of the 1<sup>st</sup> November 2022 and then the new contract with Anchor Hanover Group for The Laureates before the current contract expires on the 31<sup>st</sup> March 2023.

**Appendices**

- Appendix 1: Equality Impact Assessment.

**Background papers**

- N/A