

SLOUGH BOROUGH COUNCIL

REPORT TO:	Cabinet
DATE:	17 th January 2022
SUBJECT:	Procurement of services for integrated care and support of extra care housing
CHIEF OFFICER:	Alan Sinclair, Executive Director People Adults
CONTACT OFFICER:	Avtar Maan, Group Manager People Strategy
WARD(S):	All
PORTFOLIO:	Cllr Natasa Pantelic, Social Care & Public Health
KEY DECISION:	YES
EXEMPT:	NO
DECISION SUBJECT TO CALL IN:	YES
APPENDICES:	None

1 Summary and Recommendations

- 1.1 The purpose of this report is to seek approval from Cabinet for a two-year contract extension for the provision of Integrated Care and Support in Extra Care, backdated to March 21. The contract is currently being delivered by Creative Support Ltd under implied terms within the previous contract and at the same rates as prior to contract expiry.
- 1.2 Officers acknowledge that procurement activity should have commenced in Spring 2020, but were prevented from doing so due to the significant pressures placed upon providers and officers in responding to the initial and subsequent waves of the COVID-19 pandemic. Nevertheless, it is also acknowledged that permission should have been sought from Cabinet to extend the contract as permitted by Regulation 72(1) (c), The Public Contracts Regulations 2015 (PCR), the conditions of which are set out in Section 3.2.12 below, and/or to have informed Cabinet of the delay in the procurement timetable.
- 1.3 An extension to the current contract with Creative Support Ltd is recommended, to provide sufficient time for the People Strategy and Commissioning Team to design and deliver a new Integrated Care and Support in Extra Care commissioning strategy, including a procurement process.

Recommendations:

Cabinet is recommended to:

- 1 Approve the extension of the current contract to Creative Support for Integrated Care and Support in Extra Care to the value of £848,200 per annum for a period of two years, this is equal to £1,696,400 (one million, six hundred and ninety-six thousand, four hundred) over two financial to cover the period 1st April 2021 to 31st March 2023.
- 2 Agree commencement of a new commissioning process to design a revised model of Integrated Care and Support in Extra Care services.
- 3 Delegate authority to the Executive Director for People (Adults) in consultation with the Lead Member for Social Care and Public Health, to enter contract documentation for the extension and to commence the process for commissioning new services.
- 4 Note that a report will be brought back to Cabinet for a decision on the proposed new model and procurement process, after a report has been presented to People Scrutiny Panel

Reason:

To seek formal approval from Cabinet to extend the contracts from 1st April 2021 for the provision of the relevant services to cover the period until new competitively procured contracts are awarded with the aim of ensuring continuity of service to vulnerable residents in the interim.

To provide authority to design a new model and a competitive procurement process to identify suitable providers to which contracts for the provision of the relevant services can be awarded at best value.

Comments of Commissioners:

“Commissioners note that notwithstanding the circumstances, officers failed to comply with the Council’s financial and contract requirements in a timely manner. Ensuring understanding and securing compliance with these processes will need to be a component of the Council’s Improvement and Recovery Plan in response to the Directions currently being prepared.”

2 Report

This report contributes to the Adult Social Care Transformation Plan, and meet the following objectives and priorities:

Slough 2040 Plan

Slough will be a healthy town, where people are supported to live empowered lives.

Slough Five Year Plan

Outcome 2 - Our people will be healthier and manage their own care needs.

Outcome 4 - Our Residents will live in good quality homes

Extra Care increases housing choices for adults with care and support needs and allows for good quality, specialist accommodation options to meet the changing care needs of our population. The provision enables older adults with support and care needs to live independent and healthy lives and contribute to the prevention and early intervention agenda through the development of specialist accommodation options to avoid the need of high-cost residential care and/or high-cost care at home.

Options considered

Option	Pros	Cons
<p>Option 1</p> <p>Do not approve contract extension and cease the provision of care and support via the current provider.</p>	<p>No savings would be delivered as the Council would have to provide services in an alternative manner that would be at a significantly higher cost.</p>	<p>Assessed care and support needs of individuals would not be met. This Council must meet the needs outlined in the Care Act and this would be on a case-by-case basis and spot purchasing would likely lead to a more expensive outcome.</p> <p>If residents care needs are not met effectively, there is a risk that residents will need to move to residential care. This would represent an increase in spend to the Council for local authority funded residents. It would also reduce opportunities for individuals to remain independent for longer within their own homes.</p> <p>Any decommissioning of provision would require a reassessment of care needs, which may take time.</p>
<p>Option 2</p> <p>Agree to extend the contract but for a shorter period and re-commission services in shorter timescale</p>	<p>This option would bring forward the opportunity for competitive tender and potential for securing services at a lower price.</p>	<p>The People Strategy and Commissioning team requires sufficient time to fully review the service model, design service provision and prepare / test the market for tendering opportunities.</p>

		<p>The Omicron wave is placing significant pressure on providers and officers currently – potentially impacting upon the quantity and quality of bids received and the ability of the team to undertake the work within the existing resource.</p>
<p>Option 3</p> <p>Bring services in house.</p>	<p>Would support continuity of service delivery.</p>	<p>There would be significant resource implications to manage this process.</p> <p>Likely to be more expensive to adopt local authority terms and conditions for staff who are subject to TUPE</p> <p>This option does not align with the Council’s strategic direction and onward Recovery and Renewal planning, nor does it support the aims of the Care Act guidance in relation to the local authority’s role in market shaping and commissioning.</p> <p>There is no expertise in the council to manage and deliver an in-house service</p>
<p>Option 4</p> <p>To issues a short contract extension, followed by procurement of a 2 year contract as per the existing model, during which time a full review of the model and procurement can take place.</p>	<p>Provides sufficient time to fully review the service model, to design service provision and prepare / test the market for tendering opportunities as well as tender services.</p>	<p>Will place a resource pressure upon the team to manage two, rather than one procurement.</p> <p>Omicron wave is placing significant pressure on providers and officers – potentially impacting upon the quantity and quality of bids received and the ability of the team to undertake the work within the existing resource.</p>

		There is provision within the The Public Contracts Regulations 2015 (PCR) to allow for the proposed 2 year contract extension.
<p>Option 5</p> <p>Implement contract extension until April 2023, whilst designing a new model and procurement process for re-commissioning services.</p> <p>Recommended Option</p>	<p>Provides sufficient time to fully review the service model, to design service provision and prepare / test the market for tendering opportunities as well as tender services.</p> <p>Enables service continuity and for individuals care and support needs to continue to be met.</p> <p>Allows for opportunities to assess market conditions.</p> <p>Takes into consideration the impact of the pandemic upon the care sector.</p> <p>Allows for opportunities to benchmark and review different types of extra care support services to identify more efficient and cost-effective service.</p>	<p>Delay to being able to tender for services.</p>

Background

2.1 Extra Care balances independent living with an enhanced sense of security where service users receive support to manage their tenancies. Essential to this are the following extra care characteristics:

- Purpose-built, accessible design promoting independent living which supports people to age in place.
- Fully self-contained properties with own front doors.
- Secure tenancies or lease arrangements where the service user has full control over who has access to their own home
- Office for use by staff serving the scheme and sometimes the wider community
- Communal spaces and facilities
- Access to planned and unplanned urgent care and support services 24 hours a day, 7 days a week
- Community alarms and other assistive technologies

- Safety and security often built into the design with fob or person-controlled entry¹

2.2 It should be noted that Extra Care schemes provide a cheaper and more personalised support to adults when compared to residential care settings as the council will only pay for the provision of care and support, the accommodation cost is the responsibility of the tenant. Tenancy or purchasing of extra care properties are paid directly by the service user to the Landlord. This includes additional charges relating to maintenance, communal facilities, and support as described in the tenancy agreement. Where affordability is a barrier, this is often funded via housing benefits claims and/or council tax reductions.

2.3 Slough Extra Care Schemes: Since 2008, there have been two Extra Care Housing Schemes in Slough; 56 properties at Northampton Place and 70 properties at The Pines.

- 1 Northampton Place are designed with 47 one-bedroom and 9 two-bedroom self-contained properties. 10 of the 56 properties are sold on a shared ownership with the rest being available for rent.
- 2 The Pines are designed with 55 one-bedroom and 15 two-bedroom self-contained properties. 17 of the 70 properties are sold on a shared ownership with the rest being available for rent.

Under the shared ownership scheme, eligible applicants must buy 75% share of the property, with the Landlord Anchor/Hanover, retaining the remaining 25% share in the property.

2.4 Eligibility: Applicants must be 55 years or older, with care and support needs, and have a local connection to the area. For either setting, the applicant must make an application on the housing register to rent an extra care property or register with the Council for shared ownership. The Council have the nomination rights to 99 properties from 126 properties, with the remaining properties being purchased under a shared ownership arrangement. Applications are assessed for suitability by the Housing Panel; this is a joint Adult Social Care, Housing Allocations, care operator, and housing operator panel that reviews and agrees applications to the schemes from adult social care and housing allocations

2.5 The Council and Anchor Hanover operate under a partnership nominations agreement, this sets out the process for assessing applications, the eligibility criteria for extra care, the level of need within the extra care setting as well as roles and responsibilities for both organisations. Under the nominations agreement Anchor Hanover provide the housing management service and the Council is responsible for providing care and support for planned care, unplanned care and responding to urgent needs. Care and support were initially provided internally by the council; this was transferred in 2016 under a competitive tender process to Creative Support Ltd; whilst there are two service provisions in place with Creative Support Ltd and Anchor Hanover, the service operates as one.

2.6 Housing Management Support: this is provided by the landlord, Anchor Hanover and is responsible for the provision of cleaning, maintenance, and catering services. The

¹ Housing Learning & Improvement Network Fact Sheet 1- Extra Care What Is it? 2015

cost towards these services is covered by the tenancy agreement or service charges for those with a shared ownership lease. Anchor Hanover is contracted by the council to provide practical support to residents such as helping them to make GP/Dentist/Optician's appointments, to help with correspondence, housing and other benefit claims, support to access the restaurant, communal activities etc. These services are provided under the councils Care Act 2014 responsibilities arising from prevention, delay and addressing isolation. The local authority contributes £9.21 per week per nomination (maximum of £48,000 per annum) towards this service. At present, the local authority has not passed the cost of this service to tenants or leaseholders. As part of the service redesign and consultation, a report outlining the various options will be presented to Cabinet to either exit from this arrangement or to reduce the costs.

2.7 Provision of Care and Support: this is provided by Creative Support Ltd; the level of support is dependent upon the identified assessed and eligible needs under the Care Act 2014 and how this will be met is described in a personalised support plan. The type of support will vary to include personal care, healthcare, reablement, support with nutrition, administration of medication, etc.

2.8 Creative Support Ltd provides a care and support service and has an on-site presence 24 hours 7 days a week. Provision of planned care is provided between core hours of 7am – 11pm. Outside of these hours Creative Support will respond to any additional needs (unplanned and urgent care). Home care is currently commissioned in 30-minute blocks in the community; however, it is expected that care can be provided in an extra care setting that is more flexible given the availability of on-site staff. This should enable the provider to deliver the care planned hours more efficiently and to provide a cost-effective solution when compared to alternatives such as domiciliary care (not in extra care facility) and care home placements. These differences are due to the reduced financial commitment for social care to fund accommodation costs and ancillary expenses relating to food, utility, cleaning, catering services. See Table below

Average Care Home costs (24/7)	Average Domiciliary Care package – (most daytime only)	Average Extra Care Properties Costs per flat (24/7)
£946 per week	£344 per week	£137 per week
£49,324 per annum	£17,936 per annum	£7,143 per annum
126 properties equivalent = £6,215,000 per annum	126 properties equivalent = £2,260,000 per annum	126 properties development equivalent = £900k per annum

Please note the following caveats to the above table

- The figures above are based on the average cost of care for the Council and are reflective of local market conditions. Costs can vary and are dependent upon assessed needs and eligibility, with service users in receipt of personalised care and support ranging from 7 hours per week to 56 hours per week (domiciliary care), and for care homes, costs will vary from £850 per week to £1500 per week. The table above is a calculation of averages.
- Regardless of the environment (extra care, residential or a care home) individual needs will vary, averages are used for the sake of comparisons, however there will be fluctuations in individual circumstances.

Some of the differences between the comparisons for residential care and extra care costs are due to the reduced financial commitment for the council to fund accommodation costs and ancillary expenses relating to food, utility, cleaning,

catering services that need to be met in residential care and do not need to be met in extra care. These costs are instead transferred to rental charges, service charges and the individual's own income inclusive of any supporting benefits the individuals can claim such as Council Tax Benefit, Housing Benefit and other personal pensions and benefits.

Pressures caused by Covid 19 pandemic

- 2.9 Creative Support Ltd have responded well to the challenges arising from the pandemic and implemented stringent infection control procedures, cohorting of staff and residents in line with central government guidelines. As a result, the number of COVID 19 instances have been low. The service also complied with the visiting guidelines, PPE and testing controls and used additional funds arising from the Infection Control Grant in line with the conditions outlined by the central government grant.
- 2.10 The People, Strategy and Commissioning service has been instrumental in the wider partnership pandemic response, across East Berkshire and swiftly switched from strategic commissioning to operational activities to:
- Support the health and social care market.
 - Steer and guide care homes, home care and supported living providers on infection control, policies on testing, workforce, cohorting, visiting, and admissions.
 - Coordinate vaccination for frontline social care workers, carers and for specialist schools.
 - Provide data, intelligence to weekly SLOMP (Slough Local Outbreak Management Plan) and East Berkshire Care Governance.
 - Support and advice to providers, carers and personal assistants on issues of vaccine hesitancy.
 - Coordinate and publish the Slough Winter Plan, in partnership with care homes, home care services, health, and the co-production network.
 - Coordinate of discharge to assess across Slough and East Berkshire.
 - Increase access by moving to 7 days 8am to 8pm service provision to enable hospital discharge, cover to out of hour duty.
 - Facilitate block contracts with care homes on behalf of the Clinical Commissioning Group, identification of Designated Care Home setting.
 - Oversee the purchasing and distribution of PPE equipment.
 - Ensure timely distribution, monitoring and administration of specific covid grants.

The active role played by the service was commended by the CQC, during the ICS Partnership Inspection 2020.

The response to the pandemic meant that the timetable of commissioning activities was not sustainable. The work plan is being reset to embed learning from the pandemic to meet the care and support needs of the community as efficiently as possible.

Key milestones to develop a revised model and procure new integrated care and support service

- 2.11 The domiciliary care market is still affected by staff shortages due to Brexit and the COVID19 Pandemic and we are in what appears to be an ongoing winter pressures period; therefore, it remains an unsuitable time currently to retender. Work on

designing a new model and re-commissioning of provision will recommence from March 2022 with a service review, prior to developing a specification and market engagement. A service user consultation will take place in March 2022 to help with the specification development. An indicative commissioning and timetable is shown below.

- 2.12 The timetable shown is subject to further conditions placed upon health and social care providers on the covid management of infection control, service user access, visiting and safety. In the event of new restrictions, a further report will be presented to Cabinet to update on the impact of the procurement process.
- 2.13 In 2016, the Council set up a Dynamic Purchasing System (DPS) for a care and support services in the persons own home for service users who have eligible and assessed needs under the Care Act 2014. This includes several housing options such as supported living, owner occupied, social housing and extra care schemes. The DPS allows the Council to add new commissioning opportunities during its lifetime and to contract new services through a mini competition for care providers to apply for the contracts to manage services. There are currently 160 providers registered to bid for call-off Contracts on the DPS, for care and support and will allow the Council to consider different service delivery options, such as multiple providers in the local areas versus one lead provider.
- 2.14 Stakeholder Engagement March 2022 – April 2022* *Subject to change in light of national guidance for visits in extra care during anticipated increase in prevalence of Omicron variant.*
- Consultation with the Lead Member for Social Care and Public Health and Executive Director Adults to inform the development of the model.
 - Consultation with tenants for the 2 extra care housing schemes (Pines and Northampton) to be informed of potential change to the on-site provider and how their involvement in the process will help design the future provider's specification
 - Consultation to be undertaken for the two service areas
 - Provision of care and support – presentation of various models of service
 - Changes to the Housing Management Service; to reduce local authority funding and assess the impact of exit from this arrangement
 - Wider public consultation - to understand future expectations and needs from the public to inform the specification and funding model
 - Stakeholder engagement/Pre-procurement Provider Engagement Event to inform design, outcomes and outputs.
- 2.14.1 Development of specification, draft contract, model and funding options February 2022 – June 2022
- Research of extra care models
 - Benchmarking of price, anticipated future demand and complexity of service users
 - Options appraisal for the specification and funding model based on consultation and best value assessment to be produced
 - May 2022 People Scrutiny and July 2022 Cabinet approvals sought on the following
 - Options for extra care integrated care and support model to be presented with a recommended approach

- Request to approve commencement of procurement based on the model agreed.
- Approval of the procurement route – Dynamic Purchasing System or Open Competition

2.15 Indicative Procurement timeline

Event	Date
Procurement Intention Notice to attract new suppliers to register with the DPS and engagement with various stakeholders	February 2022
Cabinet authority on proposed model and authority to comment procurement	June 2022
ITT issued on SE Shared Services E-portal (restricted due to use of DPS) <ul style="list-style-type: none"> • <i>Specification detailing skills, knowledge and competency requirements</i> • <i>Draft contract outlining terms and conditions</i> • <i>Evaluation criteria</i> • <i>Performance workbook detailing key outputs, and outcomes</i> 	August 2022
Deadline for receipt of clarifications (<i>about 10 days after issuing tender</i>)	August 2022
Target date for responses to clarifications (<i>About 5 days after above deadline</i>)	September 2022
Deadline for receipt of Tenders (<i>it must be on the portal for 30 days minimum from date of issue</i>)	September 2022
Evaluation of Tenders	October 2022
Presentations – if appropriate	October 2022
Prepare and approve Tender evaluation Report (TER)	October 2022
TER approval from Cabinet and subsequently the Procurement Review Board	November 2022
Notification of contract award decision	November 2022
"Standstill" period <i>10 days of award notification</i>	November-December 2022

Confirm contract award (subject to no challenges)	December 2022
Contract start and start of mobilisation period, including provider consultation and possible handover, service user reviews and TUPE (transfer of undertakings (protection of employment). Contract signed with agreed start date	January 2023 – March 2023
Target service commencement date	1 st April 2023

2.16 Need for short term extension pending re-commissioning: To ensure service continuity whilst providing sufficient time to design and deliver commissioning and procurement strategies, it is necessary to seek authority to extend the contract to current provider for a duration sufficient only to allow new procurement activities to be completed.

The primary reason for contract extension is as follows:

- Impact of the pandemic meant many site visits have been delayed by up to 18 months due to risk management issues.
- Many providers have been operating remotely, therefore service user consultation to co-produce services have been impacted.
- Many providers responding to the pandemic were not able to take on additional workload pressures and respond to a tender.
- The work generated due to the pandemic meant the People, Strategy and Commissioning service had limited, if any, time to focus on strategic commissioning activities.
- Significant structural changes have made it difficult to progress some of the contracts, for example recruitment of key posts arising from the reorganisation.
- The loss of capacity due to some staff leaving the organisation.
- To ensure sufficient time to fulfil the councils best value duty in a complex and changing care market and to undertake a Fair Cost of Care exercise,

3. Implications of the Recommendation

3.1 Financial implications

3.1.2 The council is responsible for procuring a suitable care provider and payment of care and support costs to meet assessed needs.

3.1.3 The current care provider is Creative Support Ltd. They provide CQC Regulated services on outcome-based care and support within the extra care housing environment.

3.1.4 The current contract price provides a maximum of 45,130 hours of care; this is a mixture of planned care, unplanned care and urgent care. The current contract price is £848,200 per annum, making the unit cost at £18.79 per hour.

3.1.5 For two years, the contract price will be £1,696,400, the maximum hours purchased will be 45,130 annually to ensure containment within the current budget envelope.

- 3.1.6 Due to the demand led nature of the care provision, the financial risk is based on potential change in assessed needs which may lead to increased care provision over and above the contracted value. However, this would go through the normal Social Care Panel Approval process with the same level of scrutiny to agree any additional hours over and above the contracted hours.
- 3.1.7 Where there are assessed eligible need, service users will be subject to a financial assessment to contribute towards the cost of their care. Timely financial assessments are a key priority and is integral to the Adult Social Care Transformation Programme, the Council has invested in increased capacity for the Financial Assessments Team and is anticipating an increase in financial contributions across a range of care and support services in Extra Care. The annual client contribution towards this service is approximately £52,000 per year, it is worth noting that over 50% of residents assessed for contributions were under the financial threshold for care contributions.
- 3.1.8 Following approval to extend the contract, a detailed analysis of the cost structure will be undertaken to support the pricing matrix to enhance value for money to the council. This includes but is not limited to client reviews, benchmarking of price to ensure competitiveness, review the service delivery model to ensure it is outcome focussed and to reduce dependency.

3.2 Legal implications

- 3.2.1 The Care Act 2014 Section 5 promotes a duty for local authorities to shape an effective marketplace of services to meet care and support needs in the local area. The Act describes how local authorities will manage the market to drive innovation, choice, quality, and continuous improvement whilst ensuring value and promoting Wellbeing. The Act places the following duties for adult social care commissioning authorities:
- To promote wellbeing for people with care and support needs.
 - Focus on outcomes that are important to people and the delivery of person-centred care.
 - Outcomes based commissioning to develop services for people, carers, and the wider population to achieve wellbeing alongside meeting care and support needs.
- 3.2.2 The Care Act also promote the principle of wellbeing; it is a broad concept and relates to the following:
- Personal dignity
 - Physical and mental and emotional wellbeing
 - protection from abuse and neglect
 - control by the individual over their day-to-day life (including over care and support provided and the way they are provided)
 - participation in work, education, training or recreation
 - social and economic wellbeing
 - domestic, family and personal domains
 - suitability of the individual's living accommodation
 - the individual's contribution to society.
- 3.2.3 Preventative services can be provided in accordance with the overarching duties under the Care Act. When these are arranged by the local authority, they can be provided free of charge or they can be charged for. Charging for some services can

be a vital way of ensuring continuing affordability. The Care and Support (Preventing Needs for Care and Support) Regulations 2014 continue to allow local authorities to make a charge for the provision of certain preventative services, facilities or resources, although some specified services must be provided free of charge, including intermediate care and reablement for up to 6 weeks and some aids and minor adaptations (for example, up to value of £1000).

- 3.2.4 The statutory guidance confirms that prevention services do not have to involve the local authority directly providing or commissioning a service and effective forms of prevention can result from partnerships with other public services, voluntary and community organisations and other providers. In developing partnerships, local authorities should consider any barriers preventing people on low incomes from benefitting from these activities and take reasonable steps to avoid this.
- 3.2.5 The guidance confirms that where a local authority chooses to charge for a particular service, it should consider how to balance the affordability and viability of the activity with the likely impact that charging may have on uptake. In some cases, charging may be necessary in order to make a preventative service viable or to keep a service running. Local authorities should take reasonable steps to ensure that any charge is affordable for the person concerned and the local authority must not charge more than it costs to provide or arrange the service, facility or resource.
- 3.2.6 When considering ending the provision of preventative services, local authorities should consider the potential impact and consequence of such action as poorly considered exit strategies can negate the positive outcomes of preventative services, facilities or resources, and ongoing low-level care and support can have a significant impact on preventing, reducing or delaying need.
- 3.2.7 Section 9, Care Act (2014) places a duty on the Council to assess adults where it appears the adult may have needs for care and support. The duty to assess applies regardless of the level of needs and support, or the level of financial resources of the adult. Core components of the assessment must include:
- The adult care and support needs
 - The impact of the adults needs for care and support on all aspects of well-being
 - The outcomes the adult wants to achieve
 - How, and to what extent, the provision of care and support can contribute towards the achievement of those outcomes
- 3.2.8 An assessment of needs must be fully inclusive, involving the adult, carers and family members, advocates if required and where the adult lacks capacity, any person who appears to the authority to be interested in the adult's welfare.
- 3.2.9 Section 18, Care Act (2014) creates a duty to meet assessed needs in a person's own home, this includes people living in Extra Care who have eligible assessed needs. Eligibility is dependent upon the following components
- The adult is ordinarily resident in the authority's area or is present but with no settled status.
 - The adult consents to the Council meeting their needs; or
 - Where the adult lacks capacity, a Best Interest Decision is made that the Council should meet needs.
- 3.2.10 Charging for services provided to meet eligible Care Act needs are governed by the Care Act (Charging and Assessment of Resources) Regulations 2014. There is no

charge under Section 14 of the Act for meeting needs based on the financial assessment being below the threshold. This does not preclude arrangements for the provision of care, or for assessments being above the threshold and subject to a financial charge.

- 3.2.11 Ensuring needs are assessed and securing the provision of care and support services will help the Council fulfil its legal responsibilities to the occupiers.
- 3.2.12 Regulation 72(1) (c), The Public Contracts Regulations 2015 (PCR) allows for contracts to be modified without a new procurement where all of the following conditions are fulfilled:
- i. the need for the modification has been brought about by circumstances which a diligent contracting authority could not have foreseen; as set out in this report, the COVID-19 pandemic, which was not foreseen impacted on the Council's ability to retender this service;
 - ii. the modification does not alter the overall nature of the contract (no significant changes have been made to the nature of any of extensions);
 - iii. the increase in price does not exceed 50% of the value of the original contract (there have been no increases in price for any of the contracts).
- 3.2.13 The procurement exercise when the service is retendered, will be subject to and conducted in accordance with the Public Contracts Regulations 2015, and the Council's Contract Procurement Rules. The value of the contract is likely to exceed the current threshold for the light touch regime, which this service will fall under and the rules of the light touch regime as specified by the PCR must be adhered to.
- 3.2.14 The procurement exercise will also be subject to the procurement principles of equal treatment, fairness and non-discrimination.
- 3.2.15 The proposed contract will be in the form approved by the Council's Legal Services, HB Public Law.
- 3.2.16 For the planned recommissioning, the Council should take account of the Care Act statutory guidance. The guidance emphasises the importance of choice and local authorities should offer a genuine choice of service type, including extra care housing, supported living, support provided at home and live in domiciliary care as alternatives to residential care. The local authority has a key role in market shaping and commissioning to ensure that the system is designed and facilitated to produce a healthy market of quality services. A core activity of market shaping is to engage with stakeholders to develop an understanding of supply and demand and articulate likely trends that reflect people's evolving needs and aspirations and to signal to the market the types of services needed now and in the future, whilst encouraging innovation, investment and continuous improvement. This also includes working to ensure that those who purchase their own services are empowered to be effective consumers and are able to make informed decisions.
- 3.2.17 The local authority's commissioning role is seen as cyclical, requiring an assessment of needs of the local population for care and support services, determining what element of need should be arranged by the authority, designing, delivering, monitoring and evaluating those services to ensure appropriate outcomes. Commissioning includes activity to ensure that sufficient and appropriate services are available to meet the needs of growing numbers of people with personal budgets and direct payments. Therefore, commissioning should be

more shaped by outcomes that both commissioners and individuals identify, rather than volumes of activity expected.

3.2.18 The guidance requires local authorities to focus on the following:

- Outcomes that promote wellbeing and that matter most to local people
- Promoting quality – this includes ensuring continuous improvement and encouraging services that respond to the fluctuations and changes in people’s care and support needs.
- Supporting sustainability – local authorities should not undertake any actions which may threaten the sustainability of the market as a whole, for example, by setting fee levels below an amount which is sustainable for providers in the long-term.
- Ensuring choice – this includes having different types of service provider, as well as a genuine choice of service type. Choice should include choice over the way services are delivered, when services are delivered, choice over who is a key care worker and arranging for collaboration to ensure the right provision is available.
- Co-production with stakeholders – commissioners should work alongside people with care and support needs, carers, family members, care providers, representatives of care workers, relevant voluntary, user and other support organisations and the public to find shared and agreed solutions.
- Developing local strategies – these should be evidence-based and align with wider corporate planning. These should link with local analysis of need, engagement activities, market and supply analysis, resource allocation and procurement and contract management activities that translate into appropriate high quality services.

3.3 Risk management implications

3.3.1 Overall, the risks can be themed as follows

- Withdrawal of statutory services by the incumbent Provider due to the absence of a formal contract. In these circumstances the procurement plan will be bought forward, although it is anticipated that the 2 year extension will provide assurance and stability to the Provider, the Council and residents that benefit from this service.
- Increased cost to the contract – there is no guarantee that at retender the cost of the contract remains the same or lower, there is a risk that tendered prices exceed the value of the current contractual value. This is one of the reasons why a contract extension required to allow for more time to understand market forces, impact of Brexit and COVID on the workforce and local market.
- Challenge - there is a small risk of challenge for the contract being extended; although arguably the extension has been brought about due to the impact of the pandemic and is to allow for the council to follow a competitive and transparent procurement process. The impact of Brexit and COVID-19 in suppressing the market means a challenge is unlikely, however the contract extension shall include provision for early termination if a fresh procurement becomes necessary.

3.4 Environmental implications

3.4.1 None

3.5 Equality implications

3.5.1 Following Cabinet approval to initiate the procurement process a detailed Equalities Impact Assessment will be undertaken with the updated service specification to be procured will address all relevant equalities requirements. The Market Management Team within the People, Strategy and Commissioning Service monitor data for support and care within existing Extra Care services, it is anticipated that Extra Care housing with care continues to offer positive outcome for a range of protected groups including older people and disabled adults.

3.6 Procurement implications

3.6.1 The care and support services were re-tendered in 2014 and awarded in August 2015 through open tender processes. The length of the contract was for a 3+1+1. The provider was selected based on price and Creative Support provided the most economically advantageous terms (MEAT), initially this was a Council provided service and had significant Transfer of Undertakings (Protection of Employment) Regulations (TUPE). The term of the contract expired on 31st March 2021 but is continued under implied contract.

3.6.2 Officers will be exploring procurement options for the Integrated Care and Support in Extra Care to ensure that the new service provision meets the Council's and service user's requirements. A service user consultation and review of the current model will start in Jan 2022, with a view to co-produce a service specification to meet needs. Following a market engagement event a timetable for tendering the contract will be developed.

3.7 Workforce implications

None

3.8 Property implications

None

4. Background Papers

None