

**Open Report on behalf of Terry Hawkins, Assistant Director, Strategic Commissioning and Performance**

Report to:	<b>Cllr G Marsh</b>
Date:	<b>17 May 2011</b>
Subject:	<b>Waiver of Contract Regulations</b>
Decision Reference:	<b>01822</b>
Key decision?	<b>No</b>

**Summary:**

This report sets out the proposal allowing Adult Social Care to extend the existing agreement with Homecare Helpline for a period of two years.

**Recommendation(s):**

To extend the Agreement with Homecare Helpline (Compleat Care (UK) Ltd.) for two years until 30 April 2013.

**Alternatives Considered:**

1. Extend current contract without tender.  
 Advantage :This option would secure for an additional period a service which is highly effective in in diverting older people from long-term care and supports the Council's extra care housing strategic priorities. Compleat Care (UK) Ltd. have indicated they would !1. accept an extension of the current contract at their existing price of £11.61 per hour.  
  
 Disadvantage : the service would not be subject to open competition at this time.
2. Expiry of the current contract on 25 April 2011.  
  
 Advantage : Allowing the current contract to expire would produce a cash saving of at least £121,000. This figure represents the budget for 2010/11 based on the projected annual spend and SAP commitments.  
  
 Disadvantage :Reputational damage to the Council's extra care housing strategy. Existing cost of procuring such alternative care may exceed current costs and cost the Authority more.
3. Tender for a new care contract.

The budget for 2010/11 is £121,000. Contract tendering costs would be additional.

Advantage : the service is subject to open competition.

Disadvantage : the cost implications of retendering at this time are uncertain. Recent tenders for extra care home support services showed accepted prices ranged from £12.46 to £13.00, an average of £12.62 per hour.

### **Reasons for Recommendation:**

Extending the current contract would secure for further period a cost effective service under current terms, mitigate the risk of price inflation and allow time to consider strategic options for extra care housing in the Sleaford area.

## **1. Background**

- 1.1 Adult Social Care currently has an Agreement in place with Homecare Helpline for the provision of home support at the Eslaforde Gardens extra care housing scheme in Sleaford. The agreement has two parts dealing with both a night time and a day time element. The current contract is due to end on 25 April 2011.
- 1.2 Eslaforde Gardens provides a uniquely designed service in a district without any other current extra care housing provision.
- 1.3 Dating from 2004, the 12 unit scheme has continued to deliver a very cost effective service exclusively for residents over 65 with medium to high care needs, requiring a minimum of seven hours weekly assessed home support and at risk of admission to residential care.
- 1.4 Two short-term units are used to avoid hospital admissions, offer hospital step-down facilities and promote diversion from long term residential care. A separate Partnership Agreement between LCC and North Kesteven District Council which runs concurrently with the care contract specifies these aims and confirms equal referral rights to both parties. This Partnership Agreement includes an obligation to LCC to pay for rent, facilities, support and communal cleaning costs for voids over the North Kesteven District Council's reported void level at the time of void. This cost element is variable but £10,000 is budgeted for 2010/11 with a spend to date of £4,737.30. It is proposed to seek a cash saving by termination of the Partnership Agreement. Executive Councillor authority is not required to do this and is not sought here.
- 1.5 The scheme is supported by a domiciliary care service providing sleep-in night cover and a day time service. The night time service is purchased on a block basis to provide cover between 10pm and 7am and includes the first two hours of disturbance. The value of this service is £33,665.06 for 2010/11. Additional assessed care hours are purchased on a spot basis to a maximum

of 7820 hours per annum at £11.61 per hour or a maximum annual value of £90,790.06. The hours paid in this part of the contract are based on actual delivered hours.

- 1.6 Both parts of the care contact give good value for money. The day time spot element is charged at a very advantageous price which contrasts with a market rate in the range of £12.46 - £13.00. In 2010 four other extra care contracts were subject to tender. The final accepted price in each case was in the range of £12.51 ph ( Boston) to £13.00 ph (Sutton-on-Sea). By further contrast, the existing extra care contract at Bourne is £12.46 ph. The block sleep-in night element has fewer comparators but the annual value equates to £10.23 ph which appears very advantageous. A similar service is provided at Bourne by the same provider at an annual value of £35,701, equating to £10.86 ph.
- 1.7 The small scale of the scheme and the already high dependency needs profile of the residents gives particularly limited scope for changing the design of the service. Although cash savings are possible by, for example, withdrawal of night cover, these would involve significant changes to the service specification and entail a renegotiation of the Partnership Agreement with North Kesteven District Council. Under such circumstances it is doubtful that Eslaforde Gardens could continue to be designated as extra care housing. There would also need to be a plan to meet the needs of existing residents during the transition to a lower dependency form of housing.
- 1.8 Extension of the current contract by two years would achieve the continued diversion of long-term and short-term residents from more expensive care options. At the same time, by deferring the need to retender the service, the risk of price escalation is mitigated, while giving the additional benefit of time to consider other strategic extra care housing options for the district.
- 1.9 EU Treaty Obligations – under EU procurement rules, this service is classified as a Part B service and the Public Contracts Regulations which govern local authorities' procurement do not require this service to be exposed to competition through a tender advertisement in the Official Journal of the European Union (OJEU).
- 1.10 The Council's Contract Regulations do not allow the direct approach to a single supplier for procurement of services above £10,000, and the value of this extension is £242,000.
- 1.11 Under the Council's Contract Regulations approval can be given by an Executive Councillor for direct negotiation of contracts with a value of up to £250,000.

## **2. Conclusion**

This contract may be extended by two years on the authority of the Executive Councillor for Adult Social Care. The current contract provides a cost effective service. An extension would secure the service under current terms and mitigate the risk of a new more costly contract.

## **3. Legal Comments:**

The Council has the power to enter into the contract and they are Part B services under the EU Procurement Regulations.

However general Treaty obligations of openness, transparency, fairness and non-discrimination would require an advertisement unless in the view of the Council the contract would not be likely to be of interest to providers in other member states of the EU. The Report provides information that suggest that due to the value and duration of the contract it is unlikely to attract interest from other bidders whether from outside the UK or otherwise.

The decision is consistent with the Policy Framework and provided it is within budget is within the remit of the Executive Councillor.

## **4. Resource Comments:**

Financial Regulations relating to rules in Relation to Contracts exist to ensure Value for Money is achieved and that governance arrangements are adequately followed. In this particular case, the hourly rate currently being charged by the provider (£11.61 per hr) is significantly lower than market rates (£12.46 - £13.00). Continuing to contract with Complete Care (UK) provides the opportunity in the short-term to ensure ongoing value for money services, whilst also providing more time to consider strategic options for extra care housing in the longer term.

## **5. Consultation**

### **a) Has Local Member Been Consulted?**

n/a

### **b) Has Executive Councillor Been Consulted?**

n/a

### **c) Scrutiny Comments**

n/a

### **d) Policy Proofing Actions Required**

n/a

## **6. Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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