

---

**CONTRACT AWARD FOR THE PROVISION OF PERSONAL CARE & DOMESTIC  
SUPPORT FOR TENANTS IN EXTRA CARE HOUSING**

---

**Responsible Cabinet Member – Councillor Veronica Copeland**

**Responsible Director – Murray Rose, Director of People**

---

**SUMMARY REPORT**

**Purpose of the Report**

1. Following the outcome of the review of extra care housing in Darlington, Cabinet approved the outsourcing of the in-house Home Care service provided in four extra care schemes at a meeting on 9 April 2013.
2. This report seeks Cabinet approval for the award of a combined contract for the provision of Personal Care and Domestic Support for tenants in Extra Care Housing from 1 April 2014.
3. The report also seeks Cabinet approval for the Council to enter into a Service Agreement for the outsourcing of the in-house home care service including provisions relating to the transfer of the in-house home care employees and the pension provision.

**Summary**

4. Darlington has provided extra care housing for eight years and following a number of service reviews of the care provision in the four extra care housing schemes, an Extra Care Housing Strategy was developed and introduced from April 2013. The Extra Care Housing Strategy articulated what the Council's vision for extra care is and how it will be provided in the future.
5. The Council currently provides an in-house Home Care service for tenants in extra care schemes. All other home care services are part of a Framework Agreement and are provided by a range of private providers.
6. The domestic support (housework, shopping and laundry) in the four Extra Care schemes is already externally commissioned and provided by two independent providers.
7. In July 2011, Cabinet approved a review of the in-house service within extra care in order to explore whether a service commissioned in a different way could deliver

longer term efficiencies. A number of efforts have been made to make the in-house service more cost effective; these efforts have included taking out a layer of management and by absorbing administration work into other roles.

8. The Council has continually attempted to work towards addressing the on-going imbalance between the budgeted staff hours and the actual care hours being delivered. However, despite these endeavours the current service delivery model of in-house care is not flexible enough to be financially sustainable for the Council in the long term.
9. On 9 April 2013, Cabinet approved tendering under one agreement for delivering personal and domestic support in extra care housing, with overnight support to be provided within the contract in the schemes where there is an assessed need.
10. The formal tender process commenced on 6 September 2013, and a total of nine tender submissions were received.
11. The individual tender submissions were evaluated by a panel consisting of five Council Officers from Commissioning, Contracting, Adult Social Care, Housing and Procurement.
12. The tender submissions were evaluated on a 60% quality and 40% price ratio.
13. The Evaluation Panel recommends the award of the combined contract for the provision of Personal Care and Domestic Support for tenants in extra care housing to Contractor Four. A full list of the tenderers and their respective scores are provided in paragraph 40 of the report, and in **Appendix 1**.
14. The Council's existing arrangements for the provision of the services will terminate on 31 March 2014 and it is proposed to enter into the new contract from 1 April 2014.
15. It is envisaged that the award of the contract to the successful tenderer, Contractor Four will result in a transfer pursuant to the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006 (and any subsequent statutory amendments which may come into force and apply to the transfer) (henceforth referred to as the "TUPE Regulations"). The effect of the TUPE Regulations will be that all employees engaged in the performance of the Services will transfer to Contractor 4 on the commencement date of 1 April 2014.
16. Pursuant to paragraph 16 above, the Best Value Authorities Staff Transfers (Pensions) Directions 2007 will apply. Accordingly, the Council is obliged to ensure that the pension provision for staff who are members of the Local Government Pension Scheme (henceforth referred to as the "LGPS") at the time of transfer is maintained by Contractor Four (the new employer). This will be achieved by entering into a closed 'admission agreement' with Contractor Four and Durham County Council (the administering pensions authority), with Contractor Four being 'pooled' with the Council for the purposes of determining assets and liabilities with the pension scheme.

17. The recommended contract award will result in up to 61 Council employees and up to 11 employees who are currently employed by the two external providers commissioned, to provide domestic support to the individuals across the four extra care housing schemes being subject to TUPE Regulations. Of the 61 Council employees affected, 34 of these are currently in the Council's pension scheme.
18. The new combined contract for personal care and domestic support will commence from 1 April 2014.

### **Recommendation**

19. It is recommended that Cabinet approve the Evaluation Panel's recommendation to award the contract to Contractor Four. The period of the contract to be awarded will be from 1 April 2014 to 31 March 2020, with the option (exercisable by the Council) of up to two further contract extensions of 24 months each.
20. Cabinet is requested to delegate authority to the Director of People Services, in consultation with the Cabinet Member with Portfolio for Adult Social Care and the Director of Resources to finalise the arrangements to ensure the effective transfer and outsourcing of the in-house home care service to the new provider.

### **Reasons**

21. The recommendation is supported by the following reasons:
  - (a) In accordance with the agreed selection criteria, the tender process for the contract for personal care and domestic support, identified Contractor Four as the most suitable provider to achieve the outcomes identified within the service specification.
  - (b) Combining contracts for personal care and domestic support will achieve a more equal, transparent and consistent service provision. It will support quality of care and also provide an opportunity to ensure "value for money" by allowing the opportunity for the new provider to offer seamless, more holistic personalised support.
  - (c) The in-house care and support services are not financially sustainable for the Council.

- (d) Efficiencies can be made by combining contracts and these are required to support the Council in meeting its overall budget efficiencies in future years.

**Murray Rose**  
**Director of Services for People**

**Background Papers**

Cabinet Report 19 July 2011, Review of Home Care & Cabinet Report 9 April 2013, Extra Care Housing – Strategy and Future Options for Service Delivery

Deepak Patrai  
Extension 6081

|                                  |   |
|----------------------------------|---|
| S17 Crime and Disorder           | No impact   |
| Health and Well Being            | This decision will impact the older people and disabled population living in the four extra care schemes or who may do in the future. Extra Care housing supports individuals to live independently in their own home whilst needing care and support to meet their assessed social care needs. |
| Sustainability                   | There are no carbon impact implications in this report  |
| Diversity                        | This decision will not have an impact on diversity  |
| Wards Affected                   | All wards are affected equally, as people may move from a ward without extra care housing into one where an extra care scheme is located.   |
| Groups Affected                  | Older people over 50 or people with disabilities  |
| Budget and Policy Framework      | This decision does not represent a change to the budget and policy framework.   |
| Key Decision                     | This is a key decision  |
| Urgent Decision                  | No  |
| One Darlington: Perfectly Placed | The personal care and domestic support services procured will contribute to the delivery of One Darlington: Perfectly placed ; People are healthy and supported and People are financially secure   |
| Efficiency                       | Efficiency savings are likely if the in-house personal care and domestic support within extra care are procured as one combined contract.   |

**MAIN REPORT**

## Information and Analysis

22. The older population in Darlington is set to grow over the next 20 years both in total with a 41% growth and as a proportion of the total population from 18.49% to 24.36% by the year 2030.
23. Extra Care Housing remains a cost effective option as it helps to maintain people to live as independently as possible in their own home, in comparison to the costs of residential care and of the high cost domiciliary care packages within the community.
24. Extra Care Housing in Darlington combines a mix of housing, care and support therefore there are a number of considerations across Adults Social Care and Housing that makes the way it is planned and delivered more complex than other forms of housing and social care. There are four Extra Care schemes in Darlington:
  - (a) Dalkeith House
  - (b) Mayflower Court (under the ownership of Hanover Housing)
  - (c) Oban Court
  - (d) Rosemary Court
25. Extra Care Housing provides individuals with all of the usual facilities of sheltered housing, together with additional support from an in-house care team. The care team work with the individuals to meet the needs identified in their Care/Support Plan. A Financial Assessment is carried out to determine how much individuals can afford to pay towards the cost of this support up to a maximum contribution.
26. The on-site, in house care team also provide a 24/7 on call care and support service to all tenants. This support can be either planned or unplanned and all tenants automatically receive this as a benefit of being a tenant within the scheme, irrespective of whether they have an assessed social care need. Tenants in extra care housing also have access to the Council's Lifeline Community Alarm Service and pay a weekly charge for this service.
27. In addition to the on-site home care team, a separate service for housework, shopping, and laundry is provided under contract with two domestic care providers.
28. On 9 April 2013, Cabinet agreed to approve the tendering for a combined contract for delivering outcome focussed personal care and domestic support in the four extra care housing schemes.

## Procurement and Evaluation of Tenders

29. An open tender exercise was undertaken, and the tender was advertised through the North East Purchasing Organisation (NEPO) Portal from 6 September 2013 to 21 October 2013.
30. Personal Care and Domestic Support is a Part B service and therefore must adhere to the reduced EU regulations applicable to this service type.

31. A total of nine organisations submitted a bid. However one of the bids was non-compliant as the provider did not submit a pricing schedule, and was excluded from the evaluation process. The remaining tenders were evaluated on a 60% quality and 40% price ratio.
32. Tenderers were asked to submit a Methodology Statement, in relation to the 60% quality criteria score, to cover the following areas:
  - (a) Aims, Objectives and Outcomes (35 points)
  - (b) Partnership Working (5 points)
  - (c) Safeguarding (10 points)
  - (d) Quality Assurance/Continuity and Reliability of Care and Support (10 points)
33. A financial audit was undertaken for each tender, and tenderers were required to sign a Health and Safety declaration as well as completing the Health and Safety Questionnaire appropriate to their organisation.
34. As part of the tendering process all tenderers were required to produce an implementation plan (including timescales) for the tender and how they propose to manage their obligations arising from the TUPE Regulations.
35. The evaluation panel followed the procurement process and successfully evaluated the tenders received in line with the procurement
36. Following evaluation of the bids the scores were as follows:

| <b>Contractor</b> | <b>Score (%)</b> |
|-------------------|------------------|
| Contractor 1      | 76.67%           |
| Contractor 2      | 76.09%           |
| Contractor 3      | 62.10%           |
| Contractor 4      | 84.17%           |
| Contractor 5      | 53.92%           |
| Contractor 6      | 51.10%           |
| Contractor 7      | 41.74%           |
| Contractor 8      | 53.57%           |

37. The provider with the highest score with a total of 84.17% is Contractor Four and it is recommended they are awarded the contract for the provision of personal care and domestic support in extra care housing.

### **Financial Implications**

38. Subject to the Council's right to terminate in the event of default or on specified notice, the contract will initially run from 1 April 2014 to 31 March 2020 with the option (exercisable by the Council) of up to two further contract extensions of 24 months each. The contract value is made up of a combination of:

A guaranteed block contract of **856 hours (per week)** and made up as follows:

- (a) An hourly rate for purchase of a guaranteed block of **632 hours (per week)** which are made up of any planned hours, as detailed in the individual's support plan and actually delivered, for on-site daytime and/or overnight personal care and domestic support.

Any additional hours of **planned and unplanned** daytime personal and domestic care which are in excess of the guaranteed level specified in the block will be purchased on a 'spot' basis according to usage and paid at the hourly rate (equivalent to the guaranteed block hourly rate).

- (b) An hourly rate for providing **224 hours (per week)** of \*on-site overnight support across all the extra care schemes between the hours of 11pm and 7am. The overnight support would respond to any planned assessed needs as detailed in the individual's support plan and any ad-hoc and unplanned emergencies whilst on site.

Any additional \***on-site overnight support** required across the extra care schemes will be purchased on a 'spot' basis according to usage and paid at the hourly rates (equivalent to the guaranteed block hourly rate)

\* the on-site overnight support at the extra care schemes could comprise of either a waking night provision, a sleep-over provision or a combination of these 2 shifts.

39. The contract value is estimated at £4 million over the six year term of the contract, however, this may vary depending upon changes to the assessed levels of support for the individuals living in the schemes.
40. **Appendix 2** provides a breakdown of the projected annual cost /savings against each of the eight potential providers.
41. The contract for personal care and domestic support in extra care will provide average savings of £59k per year over the six year term of the contract if awarded to the proposed provider, Contractor Four; these savings will range from £6k in the first year to £82k in year six.

## **Human Resource Implications**

42. It was identified that this procurement process is likely to result in a relevant transfer in line with the TUPE Regulations.
43. Since Cabinet's decision in April 2013 (see paragraph 10), the employees likely to be affected by the proposed changes and their trade union representatives were informed of the proposal, including the fact that this may lead to a potential transfer of employment to an independent provider. Meetings with staff and their representatives to discuss these matters took place in May 2013.
44. The two independent providers, who are currently commissioned to provide the domestic support at the four extra care schemes, have also been notified by the Council's Contracts team of the proposals to combine this support into a combined agreement.

45. As mentioned above, the two independent domestic support providers currently employ up to 11 employees, some of whom are specifically employed to deliver the domestic support within the extra care schemes. These employees may therefore also transfer to Contractor Four in line with the TUPE Regulations. If applicable, discussion will be required between the two independent providers and Contractor 4 (with some input from the Council if necessary).
46. From the point of contract award, the Council will comply with relevant employment and pension legislation to ensure the effective transfer of staff and service user support plans to Contractor 4.
47. Pursuant to paragraph 16 above, the Best Value Authorities Staff Transfers (Pensions) Directions 2007 will apply. Accordingly, the Council is obliged to ensure that the pension provision for staff who are members of the LGPS at the time of transfer is maintained by Contractor Four (the new employer). This will be achieved by entering into a closed 'admission agreement' with Contractor Four and Durham County Council (the administering pensions authority), with Contractor Four being 'pooled' with the Council for the purposes of determining assets and liabilities with the pension scheme.
48. The affected employees' pensions in the LGPS scheme have been considered in detail by officers, and will be maintained by allowing the new provider to join a pooling arrangement with the Darlington Borough Council pool and maintaining the employees (who are in the pool at the point of transfer) within the Darlington fund.
49. Durham Pension Fund Committee has agreed pooling arrangements can be established between the Council and a provider providing both parties agree to the arrangement. Durham Pension fund have provided a form of approved Pooling Agreement.
50. Under such an arrangement the notional deficit relating to the transferring LGPS members (which has been calculated by actuarial assessment as £1.2m) will be paid by the new employer. The arrangement would be a closed agreement enabling only the named employees who are active members of the LGPS at the date of transfer and who subsequently continue to be members of the LGPS to participate and so the risk and liabilities attaching to these pension arrangements will not significantly increase the Councils current liabilities.
51. The benefit of such an arrangement is that the notional deficit attaching to the affected employees will be funded by the new provider.



52. The main risk of such an arrangement is that in the event of insolvency for example any unpaid contributions due by the new provider would need to be met by the Council. Accordingly a bond is recommended to mitigate this risk and additionally the service contract effected by this transfer will be terminable in the event of any breach of payment of pension contributions. The amount sought in respect of the bond allows recovery for a default of usual payment over a period of in the region of six to twelve months. Internal processes are to be put in place to monitor payment and identify any default within this period.
53. Under the arrangement between the Council and Contractor Four, the new provider, will pay a total pension contribution of 31.1% of the gross salary of those employees who are active members of the LGPS at the date of transfer and who subsequently continue to be members of the LGPS following the transfer, to be divided as follows:
- a) 13.1% paid to the LGPS as per the Pooling Agreement (the employer contribution rate); and
  - b) 18.0% to be paid to the Council as a contribution to a sinking fund to be maintained by the Council in respect of the LGPS scheme deficit in relation to the employees and further payments due in accordance with additional payments required to the fund in accordance with the LGPS rules (but not including payments where the employer has exercised a discretion nor in the event of redundancy).
54. The Contractor is also to enter into a bond to guarantee payment of the pension contributions for a specified period. Internal processes are to be put in place to monitor payment (which is a condition of the contract).
55. A pooling arrangement will be adopted for the reason that the pooling arrangement will reduce the Council's remaining deficit contributions and the risks of the approach are mitigated by the seeking of a bond and appropriate internal processes to monitor continuing payments.

### **Equalities Considerations**

56. Members' attention is drawn to the Equality Impact Assessment (EIA) that was carried out as part of the review of the service and options for future service delivery which was approved by Cabinet on 9 April 2013. The report identified potential impacts of a change in provider (from the current in-house care team to a new independent provider) on individuals living in the extra care housing schemes and identified where possible mitigating actions that could be taken.

## Consultation

57. Consultation on the proposals for the options for future service delivery was carried out in all of the four extra care schemes, and individuals and their families had the option to attend meetings to discuss the proposals or were able to respond by letter. The proposals were also made available on the Council's website for the wider community to give their views.
58. Senior managers from Adult Social Care and Human Resources have met with the existing staff to seek their views and provide updates at regular intervals.
59. Following approval of the Contract Award by Cabinet, any legal obligations of the Council pursuant from the TUPE Regulations will begin to be discharged, where necessary in conjunction with Contractor Four. This will include the duty to inform and consult with staff and their trade union representative arising for the TUPE Regulations. The formal information and consultation process is planned to commence in early January 2014 and will continue until the transfer of the contract to Contractor Four on 1 April 2014.