

<b>Decision Taker:</b>	<b>Strategic Director for Children and Adult Services</b>
<b>Date:</b>	1 August 2024
<b>Report title:</b>	<b>GW2 Nursing Care Provision</b>
<b>Ward(s) or groups affected:</b>	All
<b>Classification:</b>	Open
<b>Reason for lateness (if applicable):</b>	Not Applicable
<b>From:</b>	<b>Director of Commissioning</b>

## **RECOMMENDATIONS**

1. That the Strategic Director for Children and Adult Services, in consultation with the Cabinet Member for Health and Wellbeing, approve the contract award for Nursing Care provision at Tower Bridge Care Centre to Agincare Homes Holdings Ltd for an initial period of ten years from 1 October 2024 to 30 September 2034 and the option to extend for a further five years from 1 October 2034 to 30 September 2039.
2. That the Strategic Director for Children and Adult Services, in consultation with the Cabinet Member for Health and Wellbeing, approve the contract award with an option to extend for a further five years for an estimated annual contract value of £5.89m, giving an estimated initial contract value of £58.9m and a whole life contract total value of £88.5m.
3. That the Strategic Director for Children and Adult Services, notes that there will be a separate report for approving the Lease for Tower Bridge Care Centre to Agincare Homes Holdings Ltd.

## **BACKGROUND INFORMATION**

4. The council commissions nursing care services as one means of discharging its statutory duties under the Care Act 2014 and implementing its vision for the future of adult social care.
5. The council currently commissions its nursing care provision across three block contracts, one of which was awarded to HC-One in November 2020 for nursing care beds at Tower Bridge Care Centre (TBCC) in Southwark.

6. The contract was for an initial period of three years commencing on 1 October 2021 with an option to extend for a further two years. The initial contract period is due to expire on 30 September 2024. The option to extend the contract beyond September 2024 was not available due to HC-One's desire to sell the building. Selling the building in the market would have put at risk people receiving the services provided in the building.
7. The council took the decision to purchase the freehold of the building securing the continuation of nursing care provision within TBCC. An agreement with the owner for the council to purchase the building was reached in early 2024.
8. The sale of the home to the council completed in February 2024 with the council leasing back the property to HC-One to continue providing the care on an interim basis until the council could appoint a new service provider via a procurement process.
9. On 6 February 2024, Cabinet approved the procurement strategy for nursing care provision for TBCC. Cabinet approved the delegation of the contract award to the Strategic Director for Children and Adult Services, in consultation with the Cabinet Member for Health and Wellbeing.
10. The procurement comprised of one contract being awarded to a single provider using a negotiated approach. The main focus of the procurement was to secure a provider who had expertise and knowledge in improving the service quality within care homes as TBCC's Care Quality Commission (CQC) ratings have fluctuated in the past.
11. TBCC is currently rated by the CQC as Requires Improvement. One of the key requirements of the new provider was to demonstrate their ability and approach to improving the service to achieve and maintain a 'Good' CQC rating.
12. An internal mobilisation team was established at the beginning of the year comprising officers from commissioning (including procurement, programme management and contract management), adult social care, housing, finance and communications to oversee the project from inception to completion which would result in the new service commencing 1 October 2024.
13. The work undertaken by the project team informed the basis of the negotiated approach, held regular meetings with HC-One and consulted with staff, residents and their loved ones ensuring that all key stakeholders participated in the procurement exercise.

## Procurement project plan (Key Decision)

14. The procurement plan for this proposed contract is set out below:

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	31/05/2024
Briefed relevant cabinet member (over £100k)	16/07/2024
Approval of Gateway 1: Procurement Strategy Report	06/02/2024
Publish contract notice	21/02/2024
Issue Selection Questionnaire (SQ) - prequalification and Tender docs	21/02/2024
Closing date for return of SQ	05/03/2024
Completion of SQ evaluation	08/03/2024
Invitation to initial tender to shortlisted bidders	11/03/2024
Closing date for return of initial tenders	27/03/2024
Completion of evaluation of initial tenders	11/04/2024
Invitation to negotiate to shortlisted bidders	12/04/2024
Negotiation rounds	29/05/2024
Invitation to final tenders	05/06/2024
Closing date for return of final tenders	07/06/2024
Completion of evaluation of final tenders	14/06/2024
DCRB Review Gateway 2:	03/07/2024
CCRB Review Gateway 2:	11/07/2024
Notification of forthcoming decision – Five clear working days	24/07/2024
Approval of Gateway 2: Contract Award Report	01/08/2024
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	09/08/2024
Debrief Notice and Standstill Period (if applicable)	12/08/2024
Contract award	13/08/2024
Add to Contract Register	16/08/2024
TUPE Consultation period (if applicable)	30/09/2024
Contract start	01/10/2024
Publication of award notice in Find a Tender Service	16/08/2024
Publication of award notice on Contracts Finder	16/08/2024

Contract completion date	30/09/2034
Contract completion date – if extension(s) exercised	30/09/2039

## **KEY ISSUES FOR CONSIDERATION**

### **Description of procurement outcomes**

15. The outcome of this procurement will result in a block contract comprising 95 beds of the 128 in total (74% block bed arrangement). The remaining 26% of beds, are allocated to either self-funders or other local authorities. This arrangement has resulted in a new improved service for Southwark residents who either reside currently in the homes or may do in future by commissioning a strategic partner who will work to improve the quality within the home and work with the council towards achieving a 'Good' CQC rating in the near future.
16. The new service will cater for Southwark's most vulnerable residents providing 95 beds across general nursing, dementia nursing and a provision for discharge to assess (D2A). The block bed number can be adjusted, either up or down on a yearly basis.
17. The preferred bidder, Agincare Homes Holdings Ltd is already present in the borough having successfully tendered for the four older peoples residential care homes in 2022. The contracts for these care homes commenced in May 2023.
18. The procurement has resulted in the council broadening its strategic relationship with Agincare a provider with over thirty-five years of experience in providing all types of social care in a range of environments who are experienced in change management and service development. All of which has been demonstrated and evaluated as part of the procurement procedure.

### **Key/Non Key decisions**

19. This report deals with a key decision.

### **Policy implications**

20. The council has a statutory responsibility to provide care and support to meet people's eligible care and support needs, as directed by the Care Act 2014.
21. The Care Act 2014 places a duty on the council to assess and support frail and disabled adults with their eligible care needs, whilst promoting diversity and quality in the provision of services.
22. Southwark's vision for adult social care is to deliver well-co-ordinated personalised health and social care services to prevent, delay or reduce the need for care, and to support people to live as independent lives as

possible. Nursing care within this context applies to those living with complex needs who require 24-hour care in the latter stages of their life.

23. It is estimated that there are approximately 4,000 Southwark citizens who are frail, living with dementia or approaching the end of life, to whom nursing care may be a significant area of service provision.

24. This procurement embraces Southwark Council's values and requires the provider to sign up to Southwark's Residential Care Charter, Fairer Future Procurement Framework and the End Violence at Work charter.

25. The provider is also required to support the council's Southwark Stands Together work programme by supporting the pledges of the programme in their homes to tackle racism and inequality in the borough of Southwark.

### **Tender process**

26. The tender for the Provision of Nursing Care was advertised on the following websites:

- Find a Tender
- ProContract
- Contract Finder

27. The tender process was conducted under the light touch regime and comprised of a prequalification stage (SQ), an initial tender stage, negotiation stage, bidder presentations to a partner panel and a final tender stage. Each stage was evaluated as follows:

- Stage 1 - Evaluation of the Selection Questionnaire (SQ) (Pass/Fail/Scored project specific questions)
- Stage 2 - Evaluation of Initial Tender (quality 60% and price 40%, i.e. method statements and tendered prices)
- Stage 3 - Negotiation rounds (not scored) and bidder presentations (scored by a partner panel comprising staff and loved ones of residents)
- Stage 4 - Evaluation of Final Tender (quality 45%, presentation 15% and price 40%)

28. The tender exercise commenced on the 21 February 2024 with the publication of all relevant procurement documents.

29. The documents set out instructions and guidelines including timescales for bidders to follow. The first submission being the SQ.

30. The evaluation panel throughout the tender process comprised:

- Director of Integrated Commissioning
- Director of Adult Social Care

- Assistant Director of Adult Social Care
  - Assistant Director of Quality Performance and Transformation
  - Head of Property
  - Assistant Director of Finance (price evaluations)
  - Partner Panel (panel of staff and loved ones for the bidder presentations)
31. As part of announcing the purchase of TBCC, the council met with residents, loved ones and staff on 29 January 2024. During those discussions, it was suggested that both staff and loved ones should be involved in the evaluation process for identifying a new provider.
32. The council invited people to volunteer to be on the evaluation panel and eight people volunteered – four loved ones and four members of staff. The relatives of those on the panel had mothers, a father and a wife living at the home. The staff were care professionals, an administrator and the care home manager.
33. Members of the panel who were employees of the home were paid for their time when attending planning, presentation and evaluation meetings. Loved ones were recognised for the time that they had given up with a £40 gift voucher. Given that the scores that the panel would award could be open to legal challenge, all panel members, like council officers, were briefed of the evaluation process and methodology and were required to sign a confidentiality undertaking.
34. The panel met twice before the presentation from bidders. The first meeting was to brainstorm the topics that they would like to see covered in the presentation from bidders and the second meeting was to agree what a Good answer would look like. Eight topics were identified:
- Quality of care;
  - Visiting rules;
  - Activities in and outside of the home;
  - Digitalised care planning;
  - Care specialisms;
  - Staff retention;
  - Payment of fees for the council; and
  - Promoting a homely environment.
35. Prior to the presentation, it was agreed that each panel member would ask follow up questions of the bidder if not answered during the presentation.

### **Tender evaluation**

36. The council received six SQ submissions. Two submissions did not meet the minimum required standards as they did not have any relevant experience in running care homes.

37. Four SQ applicants passed the pre-qualification stage scoring between 50 and 80 percent on their project specific questions where they were asked to demonstrate their experience in running a large nursing care home and how they monitored quality in service delivery.
38. The four pre-qualified bidders were invited to submit an initial tender on 11 March 2024.
39. One of the bidders withdrew from the tender process on 13 March 2024 citing a number of reasons as to why they could not proceed in the process including the proposed fees, the number of non-block beds, the current 'Requires Improvement' rating and the negotiable uplifts within the conditions of contract.
40. Further dialogue with the bidder revealed that the timescales for completing the service transition precluded them from bidding due to other service transfers they had undertaken.
41. On the 25 March 2024, one other bidder decided to withdraw from the tender process citing three main areas as to the reason why they were unable to submit a tender. The three main areas of concern cited, were the regulatory issues and subsequently the level of support required to bring the home up from its current 'Requirements Improvement' rating, the level of block provision (bed mix being full nursing) and the financial viability for operating the home.
42. The project team reviewed the concerns raised by the two bidders who had withdrawn and informed them of an increased financial envelope however their decision to not submit a tender remained unchanged. The team made a decision to continue with the tender process with the two remaining bidders.
43. Two initial tenders were received and evaluated by the panel. One bidder passed the initial tender, scoring 76% out of 100 for their quality submission and submitted a price within the financial envelope.
44. The other bidder did not pass the quality threshold having scored 40% out of 100 which was below the required 60% quality threshold.
45. The bidder who had passed initial tender stage was invited to commence negotiations on 11 April 2024. The other bidder was excluded from the tender process at this stage.
46. The first negotiation round commenced 23 April 2024 with the remaining bidder. There were two further rounds of negotiations with the final round concluding on 29 May 2024.
47. The bidder presentation to the partner panel was held at the home following the second negotiation meeting. The partner panel was given the opportunity to ask any follow up questions after the presentation.

48. The panel reconvened the following week to moderate their scores. The scores for the presentation ranged from 0 – 4 with all except two of the topics scoring 2 (satisfactory) and two of the topics scoring 3 (good). The overall weighted score for the presentation was 8.4% out of 15%.
49. The bidder fed back that they found the in-person presentation beneficial and if they did it again they would spend more time on the Q&A rather than the presentation when there was an opportunity for a dialogue rather than ‘second-guessing’ what the panel wanted to know when confirming the topics for discussion.
50. Prior to the final negotiation meeting, three members of the council’s evaluation panel visited a nursing care home operated by of the bidder. The visit was not part of the evaluation but similar to TBCC, the home was rated as ‘requires improvement’ when the bidder took it over and has now recently been re-inspected by CQC and rated as ‘good’.
51. Upon completion of the negotiation rounds, care home visits and bidder presentations, the bidder submitted their final tender submission on 7 June 2024.
52. The final tender evaluation and moderation followed the same process undertaken in the initial evaluation except for the introduction of the bidder presentation score. The final weighted score achieved was 86.2% split across the following criteria:

Bidder	Quality (45%)	Presentations (15%)	Price (40%)	Total (100%)
Agincare Homes	37.80%	8.44%	40.00%	<b>86.24%</b>

**Plans for the transition from the old to the new contract**

53. A dedicated project team will oversee the mobilisation process with the bidder holding regular operational meetings, and monthly strategic meetings with stakeholders during the mobilisation period, and then quarterly, as a minimum, thereafter.
54. TUPE will most likely apply upon award of the contract.
55. A six-week mobilisation period is included within the procurement project plan, for the transition of the home to the new provider and to support the TUPE transfers.

**Plans for monitoring and management of the contract**

56. The contract will be managed by the contract management team who sit within the Quality, Performance and Transformation business unit within Children and Adult Services.



57. Quarterly strategic review meetings incorporating the quarterly contract monitoring meetings will be held to oversee the performance of the service and to review the progress and delivery of set objectives. An annual monitoring report will be presented to the Corporate Contract Review Board (CCRB), within six months of the contract anniversary.

58. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.

**Identified risks for the new contract**

59. The following risks and associated mitigations have been identified:

<b>Risks</b>	<b>Mitigation or control</b>	<b>Likelihood</b>
Provider failure and / or a drop in their CQC rating to 'Inadequate'.	Monthly strategic and operational review meetings with senior personnel will be set up to initially to oversee the mobilisation of the service to ensure a smooth transition and then on a quarterly basis to monitor the performance and progress of set objectives. The successful bidder has experience in mobilising these types of service and has submitted a robust mobilisation plan as part of their bid. Should the CQC rating drop or a provider failure occur, there is provision within the conditions of contract to terminate the contract and seek an alternative provider.	Low to Medium
Provider accepting referrals without the necessary infrastructure / workforce in place.	During contract mobilisation, officers will seek assurance from the provider that the necessary staffing levels remain the same through the TUPE transfer process and issues that arise are addressed promptly.	Low
Inflationary Pressures	There is a provision within the terms and conditions that supports inflationary uplifts on an annual basis, throughout the duration of the contract.	Low

	The provider is required to submit an uplift proposal each year.	
Voids within the Home.	As this is a block contract there is a risk of paying voids for the unutilised beds however block bed number can be adjusted, either up or down on a yearly basis. The number of block beds has been informed by the work undertaken by the project team to determine the future demand needs of nursing and D2A provision. The utilisation of the beds will be regularly reviewed at the strategic review meetings to mitigate paying for voids.	Low
Procurement Challenge	The procurement has been conducted in accordance with the Public Contracts Regulations 2015.	Low

## **Community, equalities (including socio-economic) and health impacts**

### **Community impact statement**

60. Southwark is a diverse borough, and this applies both to users of adult social care, the general population, and its care workforce. The residential care population is predominantly frail older adults or older people with dementia and mental health support needs. In line with the demographic of old frail population, this group of residents is more likely to be female and white than the general population.
61. The result of this procurement has not had a negative impact in relation to the groups identified as having a “protected characteristic” under the Equality Act 2010 and the councils’ equality agenda. It will however directly benefit the older population including those with mental health support needs by recommending the contract is awarded to an organisation who has demonstrated throughout the procurement process that they have the required knowledge and skills to meet the key objectives of this procurement and transform the quality within the home to achieve a ‘good’ rating.
62. An Initial Equalities Impact Assessment (EIA) included as Appendix 1 to this report, has been conducted in line with the requirements of the Public Sector Equality Duty (PSED) and the following aspects have been considered as part of the tendering process:

- Culturally sensitive personal care and activities.
- Monitoring of satisfaction levels across all residents on the quality of person centred care.
- Support and manage language barriers for those with dementia.
- Improve digital access for older people.

63. The bidder's written response describes how their current provision within Southwark has a highly culturally-diverse mix of both residents and staff members, which ensures cultural competency is at the forefront of their delivery and is in line with their Equality, Diversity and Inclusion Policy.

64. As part of this contract, the bidder is required to sign up to the council's Residential Care Charter and they already have it in place in the older people residential care homes that they run in Southwark.

### **Equalities (including socio-economic) impact statement**

65. Pursuant to section 149 of the Equality Act 2010, the Council has a duty to have due regard in its decision-making processes to the need to:

- a. Eliminate discrimination, harassment, victimisation or other prohibited conduct.
- b. Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not.
- c. Foster good relations between those who share a relevant characteristic and those that do not share it.

66. The bidder's written response set out their approach to ensuring equality and diversity initiatives are followed within their recruitment/retention activities.

### **Health impact statement**

67. The delivery of the nursing care provision will provide professional care for those that can no longer live independently in their homes. The health and wellbeing of residents within the nursing home is a multi-disciplinary endeavour. The new provider will work collaboratively to meet residents' health and care needs with in-reach support from health services from the commissioned GP service, geriatrician of acute hospitals and the dementia care team from South London and Maudsley NHS Foundation Trust.

### **Climate change implications**

68. Southwark Council's climate change strategy has set out an action plan with five priorities:

- Greener Buildings
- Active and Sustainable Travel
- Thriving Natural Environment
- A Circular Economy with Green Jobs
- Renewable Energy

69. Some of the commitments set out in the bidder's own environmental policy are:

- Promoting 'active travel' schemes that involve walking or cycling instead of using a vehicle;
- Recycle, reuse and reduce wherever possible;
- Promote renewable energy usage wherever feasible, with sensors on lights and heaters, use of LED bulbs, switching appliances off at the plug as best practice to avoid wasteful 'standby' lights, and smart thermostats; and
- Monitor energy usage via ESOS (Energy Saving Opportunity Scheme).

### **Social Value considerations**

70. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well-being of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

71. The council's Fairer Future Procurement Framework requires payment of the London Living Wage (LLW), where appropriate. It is appropriate for all staff working on this contract to be paid LLW. It is expected that payment of the LLW by the successful bidder will result in quality improvements for the service users. These should include a higher calibre of multi-skilled operatives that will contribute to the delivery of the services and will provide best value for the council. It is therefore considered appropriate for the payment of LLW to be required. Following award, these quality improvements will be monitored as part of the contract review process.

72. The successful bidder is required to comply with the Fairer Future Procurement Framework and implement the Residential Care Charter, as well as their commitment to pursuing various other social value measures in their Social Value method statement.

73. The successful bidder has committed to the following initiatives within their written response demonstrating how they will contribute to social value throughout the contract term:

- Apprenticeships -
  - commit to providing 2x apprenticeships per year to candidates facing multiple disadvantages;
  - through work with Southwark arm of the Care Leaver's Covenant providing an apprenticeship and volunteering opportunities for local young people, and expanding this to asylum seekers;

- Raising living standards for local residents –
  - Create/deliver circa 150 hours of work experience or volunteer positions per year, working with local schools/colleges/universities to do so. A volunteer policy and active programme is in place across Agincare Homes.
  - Agincare Homes will offer free training to all unpaid carers and local volunteers that want it, partnering with the council and local groups such as Southwark Carers, to advertise/promote this.

### **Economic considerations**

74. The successful bidder has demonstrated social value in their bids and through their commitment to creating apprenticeships and the employment of local people under this contract.

### **Social considerations**

75. This service supports the borough plan commitment and objectives to promote independence and well-being by funding activities and services to facilitate community representation and voice in the areas of health and social care. This will further the aim of promoting inclusive and representative community participation in the planning, commissioning, delivery and quality of these services in Southwark.

### **Environmental/Sustainability considerations**

76. Further to paragraph 69 of this report, the provider has considered environmental/ sustainability measures within their own environmental policy in support of delivering the council objectives including carbon reduction.

### **Market considerations**

77. A Prior Information Notice (PIN) had been published before the release of the tender to generate interest in this contract opportunity.

### **Staffing implications**

78. Staffing and contract management resources will be met within Children and Adult Services.

### **Financial implications**

79. The annual value for this block contract is £5.89m. The value for a 10-year period is £58.9m and a whole life contract total value of £88.5m. This does not take into account any inflationary increases associated with the contract. The contract will be subject to annual price review process which will give due consideration to relevant cost pressures that the home will outline in writing to the council for consideration and include continued compliance with the Residential Care Charter.

80. The contract price is calculated based on the block of 95 beds. As this is a block contract there is a risk of paying voids for the unoccupied beds. Therefore, the commissioners and the service will need to manage the contract carefully to ensure the contract is fully utilised at all times and voids (unoccupied beds) are minimised. If the size of the block changes it will affect the overall contract price.
81. The contract includes a rental income arrangement. This will allow an income generation opportunity for the council and can be viewed as a discount to the annual contract of about 5%. The rental arrangement will enable the council to charge income on both block beds and private beds within the homes. The estimated annual rent being paid by the provider is approximately £314k for the first year and will also be subject to annual inflationary discussion. The total estimated rent charged over the 10+5 year contract is approximately £4.7m subject to inflationary changes.
82. There is sufficient budget to fund this contract from Adult Social Care and it is part funded from pooled budget between the ICB and Southwark Council including the Better Care Fund, Improved Better Care Fund as well as the Market Sustainability and Improvement Fund.
83. Capital costs the council might be liable to fund as landlord can be funded from the adults social care lifecycle capital programme. This capital programme is funded from corporate resource pool any additional investment to the already agreed programme will be subject to approval through the appropriate corporate government processes.

### **Investment implications**

84. The council has agreed to provide financial support in respect of a number of potential capital works linked to the expected life cycle of key items as determined by the age and current condition of the building and some minor works.
85. The potential capital works identified are, one lift, two boilers and replacement of windows if required during the term of the lease.

### **Legal implications**

86. Please see the concurrent report of the Assistant Chief executive (Governance and Assurance) below.

### **Consultation**

87. Residents and loved ones as well as staff members were informed about the new procurement. Regular meetings were held with residents loved ones and staff to keep them informed about the progress of the procurement process and the bidder also met with representatives to present their proposal during the tender exercise. Touch base meetings were also held with the incumbent provider.

## **Other implications or issues**

88. There are none.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance REF: [18EN202425]**

89. The Strategic Director of Finance notes the recommendations set out in this report seeking approval of the contract award for Nursing Care provision to Agincare Homes Holdings Ltd for an initial period of ten years from 1 October 2024 with an option to extend for a further five years.

90. The estimated annual value of the contract is £5.9m and a whole life contract total value of £88.5m.

91. The Strategic Director of Finance notes the contents of this report and in particular the issues addressed under the 'Financial Implications' section. Commissioners and the service will need to manage the contract carefully to ensure that the block arrangements are planned and managed appropriately and that voids are minimised to ensure maximum value for money. The contribution made by the Better Care Fund (BCF) to this activity reflects the shared benefits accruing to the council, ICB and health partners in their endeavours to improve outcomes for the residents of Southwark.

## **Head of Procurement**

92. This report seeks approval of the contract award recommendation for nursing care provision in Tower Bridge Care Centre (TBCC) to Agincare Homes Holdings Ltd for an initial period of ten years from 1 October 2024 to 30 September 2034, and the option to extend for a further five years from 1 October 2034 to 30 September 2039, with estimated annual contract value of £5.89m, giving an estimated initial contract value of £58.9m and a whole life contract total value of £88.5m. It is also noted that a separate report will be provided in order to approve the Lease for TBCC to Agincare Homes Holdings Ltd.

93. The nature and value of the services to be procured dictates alignment with the Public Contracts Regulations 2015 (PCR 2015). In accordance with PCR 2015, the council must follow an advertised and competitive procurement process (detail of the proposed procurement approach and model is contained within paragraphs 26 – 52 and confirms alignment with PCR 2015 requirements, acknowledging use of a negotiated procedure as salient to the bespoke requirements). The services are not considered to be covered by the NHS Provider Selection Regime 2023 (PSR 2023) on account of their nature (representing local authority commissioned social care residential nursing as opposed to health care residential nursing). The report is also consistent with the council's Contract Standing Orders, which reserve decision to approve the recommendation to the Strategic Director for Children and Adult Services, in consultation with the Cabinet Member for Health and

Wellbeing, following review at DCRB and CCRB, and subsequent to approval of delegation from Cabinet in preceding Gateway one.

94. Headline risks associated with the contract award recommendation are contained within table at the end of paragraph 59.
95. Intended alignment with the Fairer Future Procurement Framework (FFPF) is explicitly referenced within paragraphs 24, 71 and 72, and the content of paragraphs 60 - 76 more generally.
96. Proposed methodology for performance/contract monitoring is detailed within paragraphs 56 - 58. The report also confirms that an annual performance review will be provided to the council's DCRB and CCRB in alignment with council Contract Standing Orders.
97. The Community, Equalities and Health Impact Statements are set out in paragraphs 60 - 67.
98. The Climate Change, Social Value, Economic and Environmental / Sustainability statements are set out in paragraphs 68 - 76.

#### **Assistant Chief Executive – Governance and Assurance**

99. This report seeks approval of the award of a contract for Nursing Care provision at Tower Bridge Care Centre to Agincare Homes Holdings Ltd, as detailed within the Recommendation.
100. Due to the nature and estimated value of the service its procurement is subject to the Public Contracts Regulations 2015 (PCR), which include various procurement route options. Whilst the Health Care Services (Provider Selection Regime) Regulations 2023 which came into force on 1 January 2024 regulate the procurement of certain health care services it was considered and advised that they do not apply in this instance since the procurement comprises social care residential nursing commissioned by the council.
101. The council's preferred option has been to undertake a PCR compliant negotiated procedure, the process for which is described from paragraphs 26 to 52.
102. The resulting recommendation to award a contract is also consistent with the council's Contract Standing Orders which, on the basis of the estimated contract value reserve to Cabinet the decision to approve the report's recommendation, following consideration of the report by the Departmental and Corporate Contract Review Boards. However, as noted in paragraph 9 Cabinet approved the delegation of the contract award to the Strategic Director for Children and Adult Services, in consultation with the Cabinet Member for Health and Wellbeing.



103. When making procurement decisions the council must consider and have due regard to any effects of the decision on the community at large and, in particular on people identified as possessing a “protected characteristic”, as defined in the Equality Act 2010. Paragraphs 60 to 66 note the relevant equalities considerations affecting this service and its delivery and, in particular note that an Equalities Impact Assessment (EIA) has been conducted and included as an appendix to this report for the purpose of measuring the effect and impact of the proposed contract award on service users. Officers should review and refresh the EIA at intervals in order to ensure that the needs of those service users having a protected characteristic are addressed and met fully. Conducting such an exercise assists the council to demonstrate compliance with the Public Sector Equality Duty (PSED) contained in section 149 of the Act.
104. Paragraph 87 notes and confirms the nature and scope of consultation that has been carried out throughout the procurement process.

### **Head of Property**

105. A full repairing and insuring lease will be granted to the service provider at an appropriate rent, reflecting the terms of the service contract. The service provider acting as tenant will be responsible for the upkeep of the building including services and fixtures and fittings.
106. The lease will terminate should the service contract fall away. The lease is to be excluded from the Landlord & Tenant Act 1954 (part II) as amended.
107. The rent charged reflects the wider financial arrangements of the service provision contract and will be increased annually reflecting the provisions of that contract.
108. The landlord and tenant arrangements support the delivery of this important service and reflect normal property arrangements.
109. Entering into the lease by both parties is a supplemental consequence of the award of the service contract.

### **PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS**

Under the powers delegated to me in accordance with the council’s Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature



Date **1 August 2024**

**David Quirke-Thornton**

Designation **Strategic Director of Children and Adult Services**

**PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:**

- 1) All key decisions taken by officers
- 2) Any non-key decisions that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see 'FOR DELEGATED DECISIONS' section of the guidance).

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.

<b>2. REASONS FOR DECISION</b>
As set out in the report.

<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
Not applicable.

<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>
None.

<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>
None.

**6. DECLARATION ON CONFLICTS OF INTERESTS**

**I declare that I was informed of no conflicts of interests.\***

Signature

Date 1 August 2024



**David Quirke-Thornton**

Designation **Strategic Director of Children and Adult Services**

**7. CONSIDERATION GIVEN TO WHETHER, AS A NON-KEY DECISION, THIS SHOULD BE FORWARDED TO THE CONSTITUTIONAL TEAM FOR PUBLICATION IN ACCORDANCE WITH REGULATION 13(4)\***

*The decision taker should consider whether although a non-key decision, the decision is sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available. Where there is any doubt, having considered the importance and/or sensitivity of a decision, it should be deemed that Regulation 13(4) would apply.*

**I consider that the decision be made available for publication under Regulation 13(4).\***

Signature



Date 1 August 2024

**David Quirke-Thornton**

Designation **Strategic Director of Children and Adult Services**

\* Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the council is required to put in place a scheme for recording and publishing some officer executive decisions. This process is sometimes referred to as "Regulation 13(4)".

## BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Gateway 1 - Procurement Strategy for nursing care provision	Commissioning Directorate 160 Tooley Street SE1 2QH	Genette Laws 0207 525 4227
Link: <a href="https://moderngov.southwark.gov.uk/documents/s118397/Report%20GW1%20Nursing%20care%20provision.pdf">https://moderngov.southwark.gov.uk/documents/s118397/Report%20GW1%20Nursing%20care%20provision.pdf</a>		

## APPENDICES

No	Title
Appendix 1	Joint Equality and Health Analysis 240704

## AUDIT TRAIL

<b>Lead Officer</b>	David Quirke-Thornton Strategic Director for Children and Adult Services	
<b>Report Author</b>	Sam Edwards, Procurement Manager	
<b>Version</b>	Final	
<b>Dated</b>	19 July 2024	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance	Yes	Yes
Head of Procurement	Yes	Yes
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Director of Exchequer (for housing contracts only)	N/a	N/a
Cabinet Member	Yes	No
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes

<b>Cabinet</b>	No	No
<b>Date final report sent to Constitutional Team</b>	1 August 2024	