

**CABINET MEETING – 9 NOVEMBER 2023**

**EXECUTIVE SUMMARY SHEET – PART I**

**Title of Report:**

Contract term variation of the contracts for the Provision of Personal Care and Nursing Care within a Care Home

**Author(s):**

Director of Adult Services

**Purpose of Report:**

To seek approval to vary the contract term of all contracts for the provision of Personal Care and Nursing Care within a Care Home

**Description of Decision:**

Cabinet is requested to authorise the Director of Adult Services in consultation with the Portfolio Holder of Healthy City and the Director of Finance to vary the terms of all relevant contracts to allow an extension of the current arrangements for a period of 24 months from 1<sup>st</sup> September 2024 to 31<sup>st</sup> August 2026.

**Is the decision consistent with the Budget/Policy Framework?      Yes**

**If not, Council approval is required to change the Budget/Policy Framework**

**Suggested reason(s) for Decision:**

The Council has a need to commission Personal Care and Nursing Care within a Care Home for people who have been assessed under the Care Act 2014 as being eligible for care and support from the Local Authority and to allow the person to exercise choice over their preferred accommodation.

The contract period for each contract is 1<sup>st</sup> September 2019 to 31<sup>st</sup> August 2024. There is no option to extend clause within the contract and therefore a variation is required to enable this in order to enable services to continue to be provided to our residents.

This will enable the longer-term commissioning approach for these contracts to be determined and then implemented following the enactment of the new Procurement Act, which is anticipated will make specific procurement provisions for social care contracts where service user choice needs to be exercised.

**Alternative options to be considered and recommended to be rejected:**

Do not vary and do not extend the contracts – it is recommended that this option be discounted on the basis that the current contracts are due to end and the Council has a duty to have appropriate contracts in place for the provision of care and support services. In addition, for the reasons stated in this report, it is not considered appropriate to undertake a new procurement process at this stage until the new Procurement Act has been enacted.

**Impacts analysed;**

Equality  Privacy  Sustainability  Crime and Disorder

**Is the Decision consistent with the Council’s Co-Operative Values? Yes**

**Is this a “Key Decision” as defined in the Constitution? Yes**

**Is it included in the 28 day Notice of Decisions? Yes**

## **CABINET – 9 NOVEMBER 2023**

### **CONTRACT TERM VARIATION OF THE CONTRACTS FOR THE PROVISION OF PERSONAL CARE AND NURSING CARE WITHIN A CARE HOME**

#### **DIRECTOR OF ADULT SERVICES**

##### **1. PURPOSE OF THE REPORT**

- 1.1 To seek approval to vary the contract term of all contracts for the provision of Personal Care and Nursing Care within a Care Home.

##### **2. DESCRIPTION OF DECISION (RECOMMENDATIONS)**

- 2.1 Cabinet is requested to authorise the Director of Adult Services in consultation with the Portfolio Holder of Healthy City and the Director of Finance to vary the terms of all relevant contracts to allow an extension of the current arrangements for a period of 24 months from 1<sup>st</sup> September 2024 to 31<sup>st</sup> August 2026.

##### **3. INTRODUCTION/BACKGROUND**

- 3.1 The Council has contracts in place for the provision of personal and nursing care within a care home for adults aged 65 years and over.
- 3.2 The contracts commenced on 1<sup>st</sup> September 2019 and end on 31<sup>st</sup> August 2024. There is no extension period specifically built into the contracts, but the contracts do allow for variations to the terms and conditions of the contract.
- 3.3 A competitive procurement process was not undertaken, rather the contract was developed and implemented following an extensive period of consultation with care home providers and their representatives to ensure that all parties were in agreement with the contract requirements and terms.

##### **4. CURRENT POSITION**

- 4.1 The current contracts are due to end on 31<sup>st</sup> August 2024 and the Council is required to have contracts in place for these services to ensure that service users are able to access and exercise choice over this type of provision.
- 4.2 The new Procurement Act (the Procurement Act) is due to come into force in October 2024 and the Procurement Bill as drafted suggests that these contracts may in future be subject to direct award under the light touch regime due to service user choice requirements being paramount.
- 4.3 It is therefore considered that it is not appropriate to undertake a new procurement process for these contracts at this stage. The proposed extension period will provide a reasonable period of stability for providers whilst allowing the Council to consider and then implement the implications of the new Procurement Act. It will also enable the Council to work with service providers in the care home market to review current care home provision, consider the

requirements for this type of provision in the future and then develop a new contract to reflect this.

- 4.4 It is envisaged that the Council will follow a similar process to that undertaken to develop the current contracts, by engagement in an extensive consultation process with care home providers and representatives to ensure there are a variety of providers in contract for service users to choose from and sufficient information to inform them of their choices.
- 4.5 A further report will be provided to Cabinet to seek approval and outline the procurement route for the new Personal Care and Nursing Care contract within a Care Home effective from 1<sup>st</sup> September 2026.

## **5. Reasons for the Decision**

- 5.1 The Council has a need to commission Personal Care and Nursing Care within a Care Home for people who have been assessed under the Care Act 2014 as being eligible for care and support from the Local Authority and to allow the person to exercise choice over their preferred accommodation.
- 5.2 The contract period for each contract is 1<sup>st</sup> September 2019 to 31<sup>st</sup> August 2024. There is no option to extend clause within the contract and therefore a variation is required to enable this in order to enable services to continue to be provided to our residents.
- 5.3 This will enable the longer-term commissioning approach for these contracts to be determined and then implemented following the enactment of the new Procurement Act, which is anticipated will make specific procurement provisions for social care contracts where service user choice needs to be exercised.

## **6. Alternative Options**

- 6.1 Do not vary and do not extend the contracts – it recommended that this option be discounted on the basis that the current contracts are due to end and the Council has a duty to have appropriate contracts in place for the provision of care and support services and a procurement process that is in compliance with the new Procurement Act. In addition, for the reasons stated in this report, it is not considered appropriate to undertake a new procurement process at this stage until the new Procurement Act has been enacted.

## **7. Impact Analysis**

- 7.1 **Financial Implications:** Provision exists within the Adult Social Care revenue budget for the costs associated with the period of the extension. The costs will be met from this provision.
- 7.2 **Procurement and Legal Implications:** Although the current contracts were not subject to a competitive procurement process, there was a consultation process with the care home market. The Council continue to be fully engaged with the Care Homes to ensure there is a market to allow service users choice when requiring such services. There is also no prohibition on new care homes entering

into contracts with the Council which ensure service user choice is maintained. The Council promotes equal treatment across the care home market and once the Procurement Act is implemented the new contracts will be procured in full compliance with that Act.

## **8. Other Relevant Considerations / Consultations**

- 8.1 **Co-operative Values:** Sunderland City Council is a co-operative Council and will act ethically in all its actions whilst adhering to and actively promoting its co-operative values of self-help, self-responsibility, democracy, equality, equity and solidarity. These values will underpin our decision making and actions.

