

Notice of Non-key Executive Decision

Subject Heading:	Vary contract with Bondcare (London) Limited to provide designated setting beds.
Cabinet Member:	Councillor Jason Frost, Cabinet Member for Health and Adult Care Services
SLT Lead:	Barbara Nicholls, Director for Adults Social Care and Health
Report Author and contact details:	Imani Nassor, Senior Commissioner & Project Manager Imani.nasoor@havering.gov.uk
Policy context:	Public Health England Guidance: Discharge into care homes: designated settings (16 December 2020) which details the Governmental commitment to deliver a designation scheme with the Care Quality Commission of settings for people leaving hospital who have tested positive for COVID-19 and are transferring to a care home.
Financial summary:	The costs referred to in this decision are chargeable to the NHS. They cover the commissioning of eleven nursing beds in the designated setting of £1,350 per bed per week from 16 December 2020 up to 9 April 2021 - this came to a total of £241,842.87.

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	They also cover seven beds for non-COVID19 placements charged at the CCG nursing bed rate of £903 per bed per week up to 9 April 2021 – this came to a total of £102,942.
Relevant OSC:	Individuals
Is this decision exempt from being called-in?	<i>Yes, as it is a non-key decision.</i>

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The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks retrospective approval to vary the existing contract with Bondcare (London) Limited who run The Fountains Care Centre to provide 11 nursing beds specifically for people who were discharged from hospital with a positive COVID-19 diagnosis. Plus a further seven beds specifically for people that were no longer infectious, supporting 'move on' so that beds for positive patients were not blocked. All 18 beds were provided under a block booking from 16 December 2020 until 9 April 2021.

AUTHORITY UNDER WHICH DECISION IS MADE

Paragraph 19.1 of Part 4 [Contract Procedure Rules] of the Council's Constitution states:

Subject to the authority given under the Council's Scheme of Delegation and CPRs 3 and 4, an officer who has responsibility for the day to day management and performance of an awarded contract may (subject to having the authority to do so) approve a variation or modification by way of additional works, services or supplies by the original contractor that have become necessary and were not included in the original procurement provided that one of the following applies:

iii. Where the need for modification has been brought about by circumstances which the Council could not have foreseen, the modification does not alter the overall nature of the contract, any increase does not exceed 50% of the value of the original contract or framework agreement.

STATEMENT OF THE REASONS FOR THE DECISION

The Government set out the requirement for all local authorities to set up designated settings (in care homes) in September 2020 in their respective boroughs to support the discharge of COVID 19 positive patients from hospital who required residential and/or nursing care.

The requirement was that any designated setting:

- must meet the [CQC infection prevention tool](http://www.cqc.org.uk/guidance-providers/residential-adult-social-care/infection-prevention-control-care-homes) (www.cqc.org.uk/guidance-providers/residential-adult-social-care/infection-prevention-control-care-homes)
- must meet CQC registration requirements and not be in breach of regulation
- should provide a service that is rated 'good' or 'outstanding' by the CQC. If the service is rated as 'requires improvement' with no breach of regulation, CQC will assess this on a case-by-case basis

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In addition the setting must meet the Department for Health and Social Care guidance including ensuring adequate physical separation from the rest of the designated setting.

All 18 nursing care homes in Havering were offered the opportunity to provide a designated nursing setting in Havering and The Fountains Care Centre came forward and was able to meet the requirements as set out by the Department for Health and Social Care. A CQC inspection followed in which the care home met the required infection control standards.

Another care home also responded but at the time they had an outbreak of COVID 19 and did not have the required CQC rating so did not meet the requirement.

The Fountains Care Centre was commissioned to provide 11 nursing beds specifically for people that were discharged from hospital with a positive COVID-19 diagnosis. The beds were paid for on a block booking arrangement through to 9 April 2021. These block booked beds ensured that there were nursing beds available at very short notice for patients medically fit for discharge but still testing positive for COVID 19. These beds were only available to residents from Havering, Barking and Dagenham and Redbridge who had been discharged from Queen's and King George Hospitals but Havering Council managed the placements.

In addition, seven beds were commissioned specifically for people that were no longer infectious in an area physically separate from the designated area. This was used to move people from the COVID 19 positive beds to the non-COVID 19 beds when they were no longer infectious to ensure a smooth flow from hospital through to a non-infectious care bed. These beds were also paid for on a block booking arrangement through to 9 April 2021.

This arrangement was a variation to the existing pre-placement care contract with Bondcare (London) Limited. Both actions were delivered via block booking arrangements through to 9 April 2021.

OTHER OPTIONS CONSIDERED AND REJECTED

Do nothing

This option was considered and rejected because:

The Council could rely on the 10 bed arrangement already in place with Springfield Care Home in Redbridge however they were nearing capacity and there was a risk that the needs of the three commissioning boroughs for COVID 19 positive discharges would exceed capacity.

- Residents would have remained in hospital for longer with significant impacts on the NHS and the individual well-being of patients.

PRE-DECISION CONSULTATION

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The Fountains Care Centre has been in regular contact with the Joint Commissioning Unit since the Government requirement to establish sufficient Designated Settings in the Local Authorities.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Imani Nassor

Designation: Senior Commissioning and Projects Manager

Signature:



Date: 12/05/21

Part B - Assessment of implications and risks/

LEGAL IMPLICATIONS AND RISKS

1. This report seeks to vary the existing contract with the Moreland Care Home Centre to provide an additional 14 beds in a designated setting for use for patients who are testing positive for COVID 19 but fit to be discharged and 5 beds for patients who are no longer testing positive for COVID 19.
2. The Council is a local authority and a best value authority with duties and powers to make arrangements to secure continuous improvement in the way it exercises its functions, pursuant to Part I of the Local Government Act 1999. The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do, together with the power under section 111 of the Local Government Act 1972 to do anything ancillary to or which facilitates any of its functions, including the matters set out in this report. The contract may be varied in accordance with these powers.
3. The Council intends to temporarily vary its existing contract with Moreland Care Home to allow for the increase in capacity. Reg 72 (c) Public Contracts Regulations 2015 allows for variations where all of the following conditions are fulfilled:—
 - (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
 - (ii) the modification does not alter the overall nature of the contract;
 - (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.

The need to vary this contract has arisen due to the COVID 19 pandemic and increase in infections. The variation complies with the criteria set out in reg 72(c). All temporary changes to contracts must be in writing and note that they relate to the current crisis. The Council should then be able to transition suppliers back to usual performance when the extra beds are no longer required.

4. Contract Procedure Rule 19.1:
Subject to the authority given under the Council's Scheme of Delegation and CPRs 3 and 4, an officer who has responsibility for the day to day management and performance of an awarded contract may (subject to having the authority to do so) approve a variation or modification by way of additional works, services or supplies by the original contractor that have become necessary and were not included in the original procurement provided that one of the following applies:
 - i. The modifications have been provided for in the initial procurement documentation
 - ii. A change in contractor cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or, would cause significant inconvenience or substantial duplication of costs for the

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Council provided that an increase in price does not exceed 50% of the value of the original contract

iii. Where the need for modification has been brought about by circumstances which the Council could not have foreseen, the modification does not alter the overall nature of the contract, any increase does not exceed 50% of the value of the original contract or framework agreement

iv. Where a new contractor replaces the one to which the Council had initially awarded the contract as a consequence of universal or partial succession into the position of the initial contractor.

5. In accordance with Part 4 of the Constitution: Contract Procedure Rule (CPR) 19.5 the extension document will need to be executed as a deed, as the original contract was signed as a deed.

CPR 19.7 No variation, extension or modification of a contract period may be made unless there is adequate budgetary provision.

CPR 19.8 The reasons and authority to vary, modify or extend a contract shall be recorded in writing and loaded onto the Council's preferred e-tendering suite.

6. CPR 19.9 requires extensions with a value between the EU Threshold for Supplies and Services and £5,000,000, approval of a member of SLT is required.

FINANCIAL IMPLICATIONS AND RISKS

The total cost of the contract variation amounts to £344,785.

The cost of the COVID placement beds amounts to £241,843 based on block booking 11 beds at a weekly rate of £1,350 for 16.28 weeks covering the period from 16th December 2020 to 9th April 2021.

The cost of block booking beds for non COVID placements amounts to £102,942 based on block booking 9 beds at a weekly rate of £903 for 16.28 weeks covering the period from 16th December 2020 to 9th April 2021.

These costs are paid in full by the London Borough of Havering and a monthly claim is submitted to the CCG for the reimbursement of the costs. As the full costs are recovered from the CCG there are no financial implications directly arising to the London Borough of Havering from this decision. However, there is a risk to consider that if the claim is not completed then the full amount will not be reimbursed by the CCG and LBH will be responsible for any costs that are not claimed for.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

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<p>EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS</p>
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The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

BACKGROUND PAPERS

Department for Health and Social Care, Designated Settings Requirements: FAQs (13/11/2020)

<https://www.gov.uk/government/publications/designated-premises-scheme-letter-to-directors-of-adult-social-services/designated-settings-requirements-faqs>

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision agreed

Details of decision maker

Signed



Name: Barbara Nicholls, Director for Adults Social Care and Health

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____