

Title of meeting:	Health & Social Care Portfolio Meeting
Date of meeting:	7 th March 2018
Subject:	Harry Sotnick House Transition Arrangements
Report by:	Innes Richens, Director of Health & Social Care
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of Report

- 1.1.** To brief the Cabinet Member for Health and Social Care on the preferred option to operate Harry Sotnick House Nursing Home after 1 April 2018 due to Care UK contract termination.

2. Recommendations

It is recommended that the Cabinet member:

- 2.1.** Notes the preferred option for operating Harry Sotnick House Nursing Home in the short to medium term to enable a smooth and safe transition for the residents and staff and avoid further CQC action.
- 2.2.** Delegates authority to the Deputy Director of Adult Social Care, in consultation with the Director of Finance (s.151 Officer), to continue and conclude negotiations to enter into an agreement with Hampshire County Council to provide care services at Harry Sotnick House from 1st April 2018.
- 2.3.** Authorise the Head of Legal Services / City Solicitor to enter into all documentation necessary to complete the agreement.

3. Background

- 3.1.** Portsmouth City Council entered into a design, build, operate and maintain contract with Care UK Community Partnerships Limited on the 28 August 2009. The contractor built the 92 bed facility, which comprised of 62 beds on a block bed basis and 30 Private beds for which the Contractor was able to sell and keep the proceeds.
- 3.2.** At the start of the Contract the Council provided £7m worth of financing for the construction of the facility allowing the contractor to avoid borrowing costs

that would ultimately be added to the Council block bed rate amounting to a saving of around £3.5m over the life of the contract.

- 3.3.** The first residents were admitted to the unit in 2011 and the contract was due to run 25 years to the 1st March 2036.
- 3.4.** The Contractor operated the facility under a lease set out in the project agreement for the duration of the Contract.
- 3.5.** However since the Service commenced Care UK have had issues leading to adverse Care Quality Commission (CQC) inspections. This raised several consistent issues since 2012 in particular with "care and welfare of service users" and "management of medicines". Enforcement action had been taken on more than one occasion by the regulator in relation to these concerns.
- 3.6.** In February 2015 the CQC inspection was rated as inadequate overall and an embargo on new admissions was self-imposed by Care UK. Improvements were seen in subsequent inspections and the embargo was lifted, but in November 2016 the facility was again rated inadequate overall by CQC and a 2nd embargo was self-imposed.
- 3.7.** Care UK had in the past claimed that they have made significant losses in relation to this project. Citing reasons such as an increased dependency of clients, problems with recruiting to posts on the local economy and the introduction of the National Living Wage.
- 3.8.** In 2017 this was further exacerbated due to the Council application of unavailability deductions to the service payment that resulted in the Council applying deductions equal to 100% of the monthly Service Payment for April and May, as the Council were entitled to do, as stipulated within the contract.
- 3.9.** There was no contractual provision for Care UK to "hand back" the Contract, unless PCC were in breach of contract. But in view of the care regulator (the Care Quality Commission, (CQC) issuing a notice of proposal to cancel Care UK's registration for this home, based on an inadequate inspection and the home being put into 'special measures,' which could have seen the service closed by the end of December 17, and the fact that they are providing a service to vulnerable people, the Council agreed in December 2017 to enter in talks to mutually terminate the Contract.
- 3.10.** On 31 January 2018 PCC were informed by CQC that it was their intention to issue Care UK with a Notice of Decision (NOD) to cancel the registration for Harry Sotnick House.
- 3.11.** Care UK made representation to CQC to challenge the NOD, which has resulted in a contract end date of 31 March 2018

4. Reasons for Recommendations

- 4.1.** Hampshire County Council own, run and manage 10 Nursing Homes. 8 of these have a rating of 'good' from CQC. PCC has no track record in relation to the running of a nursing home, nor of running such an establishment in 'special measures'. This makes it unlikely that an application to CQC for registration for Portsmouth City Council to run Harry Sotnick House at this time would be accepted or processed within the available timescale.
- 4.2.** In order to ensure a safe and effective handover for 1 April 2018, a provider with a track record needs to be in place. HCC have such a track record and discussions with them have assured PCC that they have the necessary skills and resources to take on such a home.
- 4.3.** These arrangements would be subject to agreement through Hampshire County Council's democratic process.

5. Equality Impact Assessment

- 5.1.** There is no requirement to complete a full EIA based on the extensive engagement with residents and their advocates.

6. Legal Implications

- 6.1.** Proceeding with the transfer to Hampshire County Council as set out in the report and the recommendations will enable the City Council to fulfil its statutory duties, in the short and medium term, for the care and wellbeing of the residents of Harry Sotnick House
- 6.2.** Appropriate legal agreements will be negotiated with the County Council to cover service provision by the County Council and the occupation of the Harry Sotnick building for the purpose of that service provision.
- 6.3.** The procurement of the County Council as the short to medium term service provider at Harry Sotnick House will be managed in accordance with the City Council's Contract Procedure Rules.
- 6.4.** Employment matters in relation to the existing staff working at Harry Sotnick House will be managed by the two Councils in compliance with the TUPE Regulations.

7. Finance Comments

- 7.1.** As highlighted within the report, initial discussions have taken place with Hampshire County Council, in relation to them becoming the Registered operator of Harry Sotnik House and providing Nursing and Care staff to run

the Service.

- 7.2.** At the time of writing this report, detailed negotiations, including those related to the financial aspects of this arrangement have yet to be fully negotiated. A detailed financial appraisal and assessment of the financial aspects of the arrangements will be undertaken as the negotiations progress.
- 7.3.** Within the Adult Social Care budget there is provision of £1.4m relating to the annual cost of operating the service at Harry Sotnick House. It is anticipated that any future arrangement will result in an increase in the annual expenditure requirements for this service and therefore it will be necessary to consider the future funding arrangements to support any increase in the costs associated with this service.

Signed by:

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location