



City of Westminster

# Cabinet Member Report

<b>Meeting or Decision Maker:</b>	Cabinet Member for Adult Social Care, Public Health and Voluntary Sector
<b>Date:</b>	17 January 2025
<b>Classification:</b>	Part exempt
<b>Title:</b>	Beachcroft House Care Home Direct Award
<b>Wards Affected:</b>	All
<b>Policy Context:</b>	Fairer Communities
<b>Key Decision:</b>	Yes
<b>Financial Summary:</b>	Financial details of the decision are included in the Part B (exempt from publication) report
<b>Report of:</b>	Bernie Flaherty, Bi-Borough Executive Director for Adult Social Care and Health

## **1. Executive Summary**

- 1.1. This report sets out the rationale for Directly Awarding a contract to (GCH (Alan Morkill House) Limited) (08130202) for the provision of residential care services at Beachcroft House Care Home in Westminster.
- 1.2. The council acknowledges that the retrospective award of the contract from the 17 December 2022 until the 31 January 2025 and for Cabinet Member to approve the direct award of the contract for a period from then on until the 31 March 2026. This rationale for this is noted in section 3.
- 1.3. Beachcroft House is a Care Home situated within Westminster. Residents at Beachcroft House receive accommodation and nursing or personal care as a single package under one contractual agreement for the provision of the care services. The care services at Beachcroft House are currently delivered by GCH. The delivery of this provision is key to ensure WCC meets the legal requirements as set out within the Care Act 2014.
- 1.4. This service is currently operating at risk due to existing contract arrangements expiring on 16th December 2022. The proposed direct award will regulate the spend during the out of contract period and ensure continued delivery of services until 2025/2026 whilst the Authority considers the longer-term options for care provision within the care home.
- 1.5. As the incumbent supplier, GCH, has been identified without competition and is currently deemed to be the only organisation that can ensure continued delivery of care services at Beachcroft House during the proposed contract period (see section 3 for detail).
- 1.6. The intention is to undertake a full review during the proposed contract period, which will determine if and how the services should be re-tendered in the future, with options to include potentially alongside care provision at Extra Care Provision at Carlton Dene and Forrester Court care home. This and other viable options will be fully explored during the proposed review within the recommended contract period.
- 1.7. The service is funded via the ASC core budget and the service has the required budget to ensure delivery throughout the contract term.

## **2. Recommendations**

2.1 That the Cabinet Member for Adult Social Care, Public Health and Voluntary Sector, in respect of Beachcroft House Care Services Contract to (GCH) (Alan Morkill House) Ltd (08130202):

- Notes the retrospective contract term from 17 December 2022 to 31st January 2025 (2 years and 1 month) and the expenditure of £10,608,875
- Approves the contract term from 1 February 2025 to 31 March 2026 (1 year and 2 months) and the expenditure of £5,761,835, making the total expenditure of £16,370,710 (£19,644,852 including VAT\*)

- Approves the maximum additional budget for this period of up to 10% per annum to support uplifts relating to general inflation and increases to London Living Wage (LLW) indicatively equating to a potential contract value of £17,414,710.

*\*To note that VAT is for reference only and is not payable for this service*

2.2 The contract price secures 100% nomination rights for WCC for all 84 registered bed spaces when they become fully available and safe to occupy.

### **3. Reasons for Decision**

3.1 The current service is being delivered at risk due to contracts expiring in December 2022.

The options that have been considered (see Appendix 1 for further detail) are:

- Direct award to the incumbent supplier (recommended as per this report)
- Direct award to an alternative supplier (not recommended)
- Undertake a procurement exercise (to be fully considered)
- Insource services (not recommended after review by Insourcing Board July 2024)
- Do nothing (not recommended)

3.1. There is no option to formalise an alternative arrangement that can commence with immediate effect without significantly disrupting the care for elderly and vulnerable residents accessing the service. The only option to immediately mitigate the risk is to directly award a new contract to the incumbent supplier, (GCH).

3.2. The recommended terms have been devised to enable retrospect delivery from December 2022 until the 31<sup>st</sup> January 2025 and then a term to 31<sup>st</sup> March 2026 2026 (39 months in total) to run in parallel with the financial years for the remainder of the contract term April 2024 to March 2026 (24 months).

3.3. This will enable WCC to regularise the spend with GCH and provide sufficient time to test the market. This will also provide an opportunity to further model other potential options following further market intelligence, engagement and understanding.

3.4. The insourcing of care homes has been explored and presented at Insourcing Board, with an update on the outcome shared with the Lead Member. The outcome from the analysis at Insourcing Board was that insourcing was not recommended as an immediate or preferred and viable option to support the contract procurement in the near future.

3.5. Ensuring that contract terms of the care homes are coterminous enables the consideration of a potential joint tender i.e. include more than one care home/service within a future opportunity. This may be more attractive to the market and may improve the likelihood of a successful tender, particularly if it can assist with resolving some of the known issues i.e., the financial envelope and the cost of delivering a single service. This option will be fully explored as part of the review during the contract term.

- 3.6. The proposed duration may also provide an opportunity for market stability and the reduction in economic market pressure, i.e. interest rates and inflation. Whilst these pressures have receded in some form gradually throughout 2024 the ongoing pressures which are relevant and applicable are those of utility cost inflation and more so increases in London Living Wage. Financial modelling will provide a better understanding of the future operational costs, which will assist with determining the desired future option of delivery. Wage inflation pressure is reflective in the recommendation point 2.1(iii), which includes the recommendation for up to 10% increases in contract cost. Inflationary uplifts will be negotiated and managed as part of the ongoing contract management of this service.
- 3.7. In June 2022 council officers conducted a market engagement exercise, during which 117 care home providers were sent an information pack and asked to complete an online form to declare if the organisations were interested in finding out more about the Beachcroft House tender opportunity in Westminster. Unfortunately, the market response was lukewarm at best, with only five organisations expressing a positive interest. A further round of more focused market engagement took place in July 2022 with 44 care home providers operating in London or the Southeast contacted directly by phone to determine who the responsible person in the organisation was to directly contact to share information about the opportunity. Again, interest was very limited, with providers either not responding or stating they were not interested at the time. Based on market feedback this would suggest that currently there would be a significant risk that a procurement would be unsuccessful. Some of the known issues are:
- The 'operator only' care homes market is immature offering a limited pool of providers and limited profit opportunities.
  - Specification/contract issues – The proposed 6 months no fault termination notice was off-putting for two providers.
  - One provider was concerned about deductions linked to KPIs.
  - An annual uplift/indexation being at sole discretion of the council was another concern.
  - The five-year block was not as attractive as expected.
  - TUPE - The information supplied by the current provider was likely to be inflated.
  - Price – Guideline average bed price was too low for some providers, despite the average prices including capital servicing payments not required for an operator of Beachcroft House.
  - Proposed legislative changes.
  - Proposed contract duration and the difficulties for suppliers to accurately bid commercially.
  - Suppliers interest in profit and a larger commercial envelope being more attractive, which is not currently feasible.
  - Staffing costs represent a large proportion of the contract (65%) current market conditions result in this cost being inflated.

- 3.8. Whilst some of these issues could be resolved via amendments to the specification and terms & conditions further reviewed, analysis and market testing is required to fully understand the feasibility of tendering for this service and confirming a service model that will be sustainable for the duration of a new contract award
- 3.9. The aim is to have an agreed position on the service by spring 2025, this should enable completion of procurement process thereafter prior to the expiration of proposed contract term to support a managed and safe transition. This work can be initiated and completed during the proposed term of the directly awarded contract by reaching the following high-level milestones:

September 2024 – June 2025
<ul style="list-style-type: none"> <li>• Service review (3 months)</li> <li>• Specification design (6 months)</li> <li>• Market engagement (3 months)</li> <li>• Requirement gathering (Ongoing)</li> <li>• Delivery options reviewed &amp; service decision on future services made (2 months)</li> </ul>
June 2025 – May 2026
<p>If a tender of services is deemed to be the chosen option then 12 months will be required to run a full compliant process. This will consist of:</p> <ul style="list-style-type: none"> <li>• Strategy development &amp; governance</li> <li>• Tender activity, including evaluation</li> <li>• Award development &amp; governance</li> <li>• Tender award &amp; contract engrossment</li> <li>• Mobilisation</li> </ul>

- 3.10. These interim contract arrangements do not include the lease for Beachcroft House to GCH (Alan Morkill House) Limited, therefore approval to issue a lease to the incumbent provider will be sought in parallel. The term of the lease will run in parallel to the contract. There is currently a 'Tenancy at Will' in place and has been agreed to March 31<sup>st</sup> 2026.

#### 4. Background, including Policy Context

- 4.1. The service is required to meet the Health and Social Care Act 2008 and (regulated Activities) regulation of 2014. This requires Registration status which is obtained by achieving the fundamental standards across a range of areas as determined, regulated, and inspected through the Care and Quality Commission. The current service is rated as Good following last inspection.
- 4.2. Beachcroft House is a care home which is registered to provide personal care and nursing care to up to 84 older people with physical disabilities, frailty and/or living with

dementia. The house is purpose built over five floors and offers a range of communal areas and facilities. The building is owned by WCC with a separate lease agreement in place

- 4.3. Beachcroft House is currently accessed by 73 residents predominantly from WCC, as well as RBKC and two remaining LBHF legacy residents who entered the care home during the Tri-Borough shared service arrangements period. Beachcroft House is one of three care homes commissioned for Older Adults in the Borough that ensures WCC has the capacity to meet the demand for residential and nursing care in the Borough.
- 4.4. 11 bedrooms on the lower ground floor (LGF) have not been accessible for a prolonged period as they are not considered safe to occupy following a significant flooding event. The entire LGF was flooded in July 2021 because of wider flooding in the Maida Vale area following a thunderstorm and extreme rainfall event. Until full assurance can be given that the risk of repeat events has been fully mitigated and the risk of residents having to evacuate the LGF area are removed, the capacity of the care home will remain at 73 beds.
- 4.5. The construction of Beachcroft House was completed in July 2020 and GCH were awarded the care provision contract directly under Care Quality Commission (CQC) dual registration to operate the care home on an interim basis.
- 4.6. During the interim period WCC devised a procurement strategy to secure a long-term supplier (10 + 5-year term). A procurement exercise took place in 2021 and out of 32 interested suppliers only 2 bids for the services, one of them being GCH. The bids put forward were underwhelming and far exceeded the benchmark pricing, the tender was subsequently abandoned and a direct award for services was agreed as the best course of action.
- 4.7. On 24 June 2021, the key decision to direct award a care contract and lease extension until the 17 June 2022 with provision for a 3+3-month extension to GCH. In April 2022 it was agreed to utilise both extension periods till 16 December 2022. This decision was delegated to the Executive Director of Adult Social Care and Public Health. A further lease has been agreed co terminus with this Direct Award to March 31<sup>st</sup> 2026.
- 4.8. The contract has since expired and both WCC and GCH have been operating at risk out of contract since December 2022. The key reason as to why the contract lapsed was due to protracted negotiation over the cost of the beds. It has taken considerable time to come to a mutual agreement, however, this negotiation has now concluded, and the value reflected within the recommended contract cost. There has also been further consultation on the previous procurement for lessons learning in 2023 and also modelling to review the option of insourcing in summer 2024. This to support the procurement strategy and reprocurement with possibility to align with additional services such as Charlton Dene which are also due to go live in Spring 2026. The Direct Award will support synchronization of that if the option to combine contracts is the option agreed as per the procurement strategy to be confirmed in Spring 2025 and support any new reprocurement of the service.
- 4.9. There have not been concerns with the quality of care and the inspection of services has upheld a Good CQC rating to date.

4.10. A summary of the key contract details is below:

Procurement reference	Prj_1066
Retrospective Contract term	17 December 2022 until 31 January 2025
Contract term	1st February 2025 until 31 March 2026
Total contract value (inc and ex. VAT)	£16,370,710 (£19,644,852 including VAT). Potential to increase up to £17,414,710 (excl. VAT) when inflationary uplifts are applied to the contract value.
Summary of Responsible Procurement commitments	<p>Mandatory RP elements will include:</p> <ul style="list-style-type: none"> <li>• Prioritised advertising of new job roles through Westminster Employment Service.</li> <li>• Requirement to meet Unison Care Charter (UCC) standards within a reasonable time period – with specific requirement to undertaking a mapping exercise, listing current adherence to the UCC standards and gaps, and a plan of how they are going to meet them within the time period set by the council.</li> </ul> <p>Flexible RP elements. Suppliers will be asked to choose an option from each of the following themes:</p> <ul style="list-style-type: none"> <li>• Employment &amp; skills - Work experience placements, taster days, participation careers events etc.</li> <li>• Inclusivity and staff motivation: Training programmes for existing staff (recognised qualifications, targeted to address ethnicity pay gaps amongst managerial tiers) additional flexible working offers etc.</li> <li>• Community Engagement – expanding their existing social value/ community engagement deliverables, linking in and forging stronger and more varied relationships with community partners to provide said offers e.g. large tricycle exercise &amp; wellbeing, dance events, schools performances etc.</li> </ul>
Does contract commit supplier to paying Living Wage?	Yes, the proposed contract will include this.
Does the contract include Ethical Procurement Policy & Supplier Charter?	Yes, the proposed contract will include this.
Is the supplier classified as a SME? If yes, what is the size	No

of the Company? e.g., Small, Medium	
Is the Supplier classified as VCSE?	No
IT implications	As (GCH) will be capturing and processing personal data of residents in the provision of personal and nursing care, the provider will need to provide evidence of applicable certification (e.g., ISO 27001, NHS DSPT, Cyber Essentials Plus) or complete the Council's Information Security Questionnaire and relevant supporting evidence. This will be reviewed by the Council's Cyber Security team in accordance with the Council's Third-Party Assurance Framework. If any mitigations are identified, these will need to be put in place as soon as possible by the provider.  IT comments supplied by Ailin Haacke 01/10/2023.

4.11. Estimated timeframe for future competitive procurement process:

Commissioning approach and specification finalised	May 2025.
Procurement process commences	June 2025
Procurement process completed	March 2026 (Including appropriate time for mobilisation March - April 2026 ).
Contract start date	April - June 2026

**5. Financial Implications**

5.1. In financial year 2024-25, the annual contract price is £4.970m, which is offset against allocated budgets. The current contract price does not incorporate any future inflationary adjustments. Any inflationary adjustments will require justification from the provider, negotiation and agreement by the Council.

5.2. Further details in Part B.

**6. Legal and Governance Implications**

6.1. The Recommendation is that the Cabinet Member for Adult Social Care, Public Health and Voluntary Sector:

1. Acknowledgment of a retrospective contract to GCH (Alan Morkill House) Limited for the delivery of Care Services at Beachcroft House from the 17 December 2022 until the 31<sup>st</sup> January 2025 at a value of £ £10,608,875 and



2. Approve the direct award to GCH (Alan Morkill House) Limited for the delivery of Care Services at Beachcroft House for a sum of £5,761,835 from the 1<sup>st</sup> February 2025 until the 31<sup>st</sup> March 2026

1&2 making a total of £16,370,710 (£19,644,852 including VAT).

3. To approve the maximum additional budget for this period of up to 10% per annum to support uplifts relating to general inflation and increases to London Living Wage (LLW) indicatively equating to a potential contract value of £17,414,710.

- 6.2. The services provided under the Direct Award that are the subject of this report fall under the category of 'Social and Other Specific Services' as defined by the Public Contracts Regulations 2015 (PCR 2015). The value of the Direct Award falls above the relevant PCR threshold of £663,540 and accordingly is subject to the 'Light Touch Regime' set out in the PCR 2015.
- 6.3. The proposed contract is recommended for direct award and is above the relevant threshold of £663,540 (inc VAT) for Light touch regime services contracts and therefore must fall within one of the grounds under Regulation 32 of the Public Contracts Regulation 2015 ("PCR"). Regulation 32 permits an above threshold contract to be awarded without public advert in three limited circumstances.
- 6.4. Regulation 32(2)c of the PCR enables the award of public contracts by a negotiated procedure without prior publication "insofar" as it is "strictly necessary" for reasons of "extreme urgency" and the time limits (even on an expedited basis) for full procedures cannot be complied with.
- 6.5. Regulation 32(4) provides that under the above ground, the circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority.
- 6.6. Any direct award in these circumstances should be made for the shortest time possible in order to re-procure in a compliant manner. It should be noted that the risk of a challenge, and such challenge being successful, increases with the length of the contract. The contract request is for an award for a period of 1 year and 2 months and the acknowledgement of a contract for a period of 2 years and one month.
- 6.7. In accordance with Regulation 50 PCR a contract award notice must be published no later than 30 days after the award of the contract.
- 6.8. The Council has adopted a strategy to deal with interim contracts that must be in place to preserve essential services whilst a full procurement process is being pursued. These legal implications have been prepared in light of that strategy so a lawful decision can be made to directly award the proposed contract. The legal implications constitute general advice for the award of the contracts based on the strategy.
- 6.9. Legal assumes the uplift in recommendation 3 to relate to recommendation 2, the officer will need to clarify.

Further legal implications are contained in Part B of this report.

## **7. Equalities Implications**

- 7.1. A full EQIA will support the reprocurement of the service. An existing EQIA is attached in Appendix 2.

## **8. Data Protection Implications:**

- 8.1. A Data Protection Impact Assessment (DPIA) was previously completed and signed off for this contract. The DPIA is currently being refreshed to ensure it is reflective of any changes. From a data protection perspective, there are no issues or concerns anticipated at this stage.
- 8.2. Under the terms and conditions of the Council's standard services contract, the contractor is required to demonstrate how it will comply with the GDPR requirements including undertaking any risk assessments and their associated mitigations.

## **9. Consultation**

- 9.1. Consultation for the direct award has been with the incumbent provider to date. A consultation engagement plan will be in place to support the formal procurement programme that will include a working group and opportunity for stakeholder feedback and engagement events to help shape the service model and specification.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**

Insert report author contact details here:

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Head of Care Markets ASC Integrated Commissioning

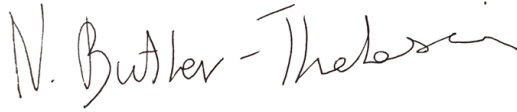
*NB: For individual Cabinet Member reports only*

For completion by the **Cabinet Member for Adult Social Care, Public Health and Voluntary Sector**

### **Declaration of Interest**

I have no interest to declare in respect of this report

Signed:



Date: 27 January 2025

NAME: **Cllr Butler-Thalassis**

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State nature of interest if any:

*(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I agree the recommendation(s) in the report entitled **Beachcroft House Care Home Direct Award** and reject any alternative options which are referred to but not recommended.

Signed:



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**Cabinet Member for Adult Social Care, Public Health and Voluntary Sector**

27 January 2025

Date:

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If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Monitoring Officer and Section 151 Officer (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

## APPENDICES

### LIST APPENDICES ABOVE BACKGROUND PAPERS

#### Appendix 1

#### Options Appraisal

Option	Pros	Cons
a) Direct award new contract with incumbent provider GCH	Continuity for current residents for CQC rated 'good' service	Not a procurement compliant route
	Gradual improvements to service can continue (without waiting for new provider)	GCH are reliant on this contract
	Timescales suggest this option is quickest to move into contract	Significant officer time to monitor and manage the service and respond to frequent requests for more staff.
b) Direct award contract to Care UK (the Forrester Court care provider)	Care UK are large, experienced care provider	Potentially disruptive for just limited period
	Possible to gain efficiencies via economies of scale across both homes	May adversely impact on care delivery at Forrester Court
	A more straightforward relationship for contract managers and monitoring officers	Another direct award so lack leverage for significant efficiencies and again not procurement compliant options
c) Carry out procurement for medium- or long-term service (3 to 15 years)	Introduces competition allowing us to specify what we need, adapting to weaknesses in current contract	Market engagement suggests is not another viable option currently for this single care home offer.
	Option likely to be less costly than in-house option	List of currently interested providers is underwhelming with mixed reputations

	and possibly than what currently paying	
		Market conditions have not changed significantly since last procurement
		Does not give opportunity to join with Forrester Court
d) Insource service as soon as practical	Allows council a level of control of service quality and who lives in the home	Council will inherit significant sector workforce issues in terms of recruitment and possibly values of TUPE'ed staff
	Opportunity to partner with health help with system pressures	Likely to be more expensive than procured option - Just one care home so reduced economies of scale and cost of support services more expensive
	Ability to link with other parts of council to innovate e.g., digital, community hub	Resources to mobilise are extensive and may distract from other areas
e) Do nothing – Service will continue with GCH out of contract	No change to practice	Out of contract

## Appendix 2

### Equalities Impact Assessment



WCC Beachcroft  
House EqIA Template