1. **SUMMARY**

1.1 This report provides details of an agreement that has been developed between the Council and NHS Waltham Forest CCG in order for both organisations to gain equal access to a new nursing home block contract for 34 beds at Forest Lodge Care Home, Bisterne Avenue, E17.

1.2 The maximum cost to the Council over the five years of the contract will be £3,882,375 plus any agreed annual uplifts to the weekly bed rate. The actual costs will be lower as the expectation is that all long-term placements will be in receipt of Funded Nursing Care (FNC) at the current rate of £158.16 per week.

1.3 The block contract is being led by NHS Waltham Forest CCG with HC-One as the provider. This proposal and supporting Memorandum of Understanding is intended to provide the Council with access to 50% of the block contract at the same price, and under the same terms and conditions as the CCG.

1.4 The weekly rate that has been agreed by the CCG with the service provider is lower than any other nursing bed rate currently being achieved within the borough (£875 per week versus £908 per week as the current lowest achievable rate with other in-borough providers.)
2. RECOMMENDATIONS

2.1.1 To agree to fund 50% of the CCG’s block contract with HC-One for nursing beds via a Memorandum of Understanding

3. PROPOSALS

3.1 The Council has been working in partnership with the CCG since 2017 to address a deficit within the borough of affordable nursing bed capacity, which remains a significant challenge for both organisations. The need to increase capacity has been recognised for some time, and work has been progressing to identify options for increasing the number of nursing beds in the borough. The unexpected closure of Ross Wyld in May 2018 resulted in the loss of 54 nursing beds and added an additional pressure to this deficit.

3.2 In June 2018, commissioners identified a vacant and non-operational nursing home in Bisterne Avenue, Walthamstow. Investigation revealed that the facility was close to being structurally complete, and had secured CQC registration to operate as a residential nursing home. The facility was previously owned by Southern Cross, and was acquired by a large national provider, HC-One, following the collapse of Southern Cross. The facility has been occupied by Guardians, but has remained non-operational as a care home since HC-One assumed ownership several years ago.

3.3 Commissioners from both the Council and the CCG entered into negotiations with HC-One to explore the potential of bringing the facility into an operational state. The home has a primary capacity of 45 beds which only require minor finishing works to become suitable for occupancy. There is an additional independent seven-bed secure unit attached to the facility that requires a greater amount of work to complete, and that is not currently part of the conversation between commissioners and the provider.

3.4 The provider proposed that a five-year joint block contract for at least 50% of the capacity will provide sufficient financial assurance for the company to invest in bringing the facility into an operational state. Due to the size of the savings through a block contract for 75% of capacity (£875 per bed per week) versus 50% of capacity (£925 per bed per week) the contract that is being implemented between Waltham Forest CCG and HC-One is for 75% of the capacity of the new nursing home for a five year period. This equates to 17 beds for the Council, and 17 beds for the CCG out of the total 45 bed capacity, if the Council agrees to contribute.

3.5 Whilst the CCG are fully supportive of a shared arrangement and equal access with the Council, they have proceeded to undertake a contract with the provider as lead contractor on the basis that they have sufficient demand for nursing beds to use the full capacity of the
contract, whether or not the Council enters into this proposed joint funding and shared capacity arrangement.

3.6 The weekly rate of £875 per bed that has been agreed through this contract compares favourably with the market. The lowest weekly rate currently being achieved by other nursing homes within the borough is £908 per week.

3.7 Whilst lower rates for over 65s nursing placements can be achieved out of borough, the provider has been clear that they will have the staffing capacity, skills and experience to provide nursing care for older people with complex needs and more challenging behaviours. Placement rates for individuals with these needs cannot be obtained at less than the proposed contract rate – either in or out of the borough in the current market.

3.8 Council and CCG officers have scrutinised the proposed financial, staffing and operational model for the service under this contract submitted by HC-One. The provider has been wholly transparent in providing all costs and details of the service operational arrangements. Officers are satisfied that the proposal represents value for money, meets CQC quality standards for staffing, and achieves a profit margin of 4.9% that is within the expected range for the nursing home market sector.

3.9 The number of over 65 nursing bed placements funded by the Council has been rising over the last five years from 95 in 2012 to an average of 144 at any given time during 2018/19.

3.10 In the first three quarters of 2018/19, the average weekly rate for nursing (including both in and out of borough homes) was £757 per week, excluding the £158.16 funded nursing care (FNC).

3.11 It is recognised that bringing the service into operation with capacity being made available to the council through the same spot-purchase arrangements that are used for other nursing bed placements would be the best option with the least risk; however the provider has been clear that they are not prepared to pursue this route.

3.12 The Council will have the capacity to terminate this agreement with 12 months' notice through the Memorandum of Understanding.

3.13 This decision is recommended on the grounds that the purpose of the commission is to create an immediate increase to the number of nursing beds in the borough. No other options to achieve this in the timescale required, and to the quality standards required are available.

4. OPTIONS & ALTERNATIVES CONSIDERED

4.1 Officers reviewed the current planning register to determine whether any other facilities are available to be commissioned into service that have the necessary planning consents for provision of residential nursing beds. It has been confirmed that Forest Lodge, owned by HC-
One is the only vacant building in the borough with existing registration and the required planning permission to operate as a nursing home.

4.2 The CCG were considering the development of a building on the Goodmayes Hospital site that had previously operated as a residential nursing home, despite the fact that this is out of borough, and is situated just over the border in Redbridge. The CCG have confirmed that this option is not currently viable with other uses now being preferred for the site.

4.3 HC-One have been clear that block contracting for either 50% or 75% of the capacity of Forest Lodge are the only options they are prepared to consider at present, outside of the premises remaining unchanged and occupied by the Property Guardians scheme.

4.4 The option of a block contract for 50% of the capacity of the nursing home was not pursued as the increase in the weekly rate to £925 per week would have made the proposal less competitive when compared with other nursing home rates currently available both in and out of the borough.

4.5 Given the commitment by the CCG to undertake the contract with the provider for 75% of the capacity, having reviewed all the alternatives, the remaining option for the council is to maintain the status quo and allow the CCG to remain sole contractor for the block contract. This option is not recommended as it would remove any assurance of access to the new capacity at the negotiated rate of £875 per week. The provider would be able to make the remaining 25% of capacity available to the Council, self-funders or other local authorities, but these placements would be spot-purchased with the weekly rates negotiated on a case by case basis.

5. SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)

5.1 Enhancing and improving support for residents – enabling their needs to be met within the borough and close to their families and communities supports the Think Family objective of keeping residents safe, and well.

5.2 The provision of high quality local nursing beds in partnership with the CCG supports the Transforming Services Programme commitment to develop “New commissioning strategies and pooled resources for key groups including older people”.

5.3 The proposal also supports the commitment in the Health and Wellbeing Strategy that “Fewer older people will feel socially isolated, and more will be actively participating in community life” through the provision of nursing beds within the borough, as well as the commitment that “All those in need of care will be well, independent and resilient” which is captured in the overarching residential services specification for the borough.
5.4 The proposal is consistent with the Council’s vision of creating a better place for people to live and is in line with the priorities of protecting the most vulnerable adults and for them to have proper choice and control over their social care.

5.5 High quality nursing care contributes to the Council’s commitment to improving service users’ experience of end of life as a key priority within the Better Care Together programme.

5.6 Nursing bed capacity is a critical factor in achieving rapid discharge from hospital, and sufficient nursing beds leads to reduced delayed transfers of care (DTOC).

5.7 Local nursing bed provision, as an alternative to being limited to out of borough provision improves residents’ quality of life such as increasing the capacity for family and carer visits and allowing people to remain close to their own communities.

6. CONSULTATION

6.1 All other in-borough nursing homes were invited to the Council in September 2018 to consider what capacity and rates they may be able to offer under similar contractual arrangements. No offers have been received from the market to date.

6.2 This report has been considered and supported by Adult Services Scrutiny Committee on June 10th 2019. All recommendations made by the committee have been taken into account.

7. IMPLICATIONS

7.1 Finance, Value for Money and Risk

7.1.1 The cost of the Council’s contribution to the block contract will be met from existing resources available from the Adult Social Care budgets.

7.1.2 The total cost of the contract over the five years is £7,764,750. Although this will be subject to annual increases in the cost per bed per week in line with any uplifts agreed between the CCG and the Council.

7.1.3 50% of the total contract cost over the five years i.e. the Councils contribution is £3,882,375 which equates to £776,475 per year. However it should be noted that almost all long-term placements made by the Council will be subject to a Funded Nursing Care (FNC) contribution which is currently £158.16 per week. Therefore, at current FNC rates the annual contribution to the contract by the council will reduce to £636,124 or £3,180,619 over the five year lifespan of the contract.

7.1.4 It should be noted that there will be instances where FNC does not apply, for example short term placements from hospital who are assessed in the care home, and whose needs are deemed not to require nursing care on an ongoing basis. Therefore, the quoted figure
of £636,124 is the lowest amount the Council can expect to contribute to the contract. Again, all costs may be subject to negotiated and agreed uplifts in the weekly rate.

7.1.5 The key risk is the management of voids (empty beds) in a residential service block contract. This is not a risk in the current system that is based solely on spot-purchased arrangements. HC-One has agreed to allow the use of voids for short-term placements such as facilitating discharge from hospital. Whilst the primary function of the commission will be for long-term placements, this agreement will ensure that void levels are kept to a minimum.

7.1.6 The CCG and the Council have also agreed to use each other's capacity where demand from one organisation exceeds that of the other in order to minimise voids. There is an agreement in place to ensure that each organisation will be charged on actual usage. This will be implemented and monitored through the final version of the Memorandum of Understanding.

7.1.7 The risk was identified of the Council and the CCG being liable for the costs of a large number of empty beds at the start of the contract. As a result, HC-One have agreed to introduce the capacity of the service, and associated contract charges incrementally, at the rate of X2 beds per week for 17 weeks. This incremental increase, and the rate of X2 beds per week has been based on current placement rates for both the Council and the CCG.

7.1.8 The adult social care brokerage team is confident that over 65 nursing placement demands are at least at the rate of one per week. Since December 2018, the lowest number of placements in a calendar month was four and the highest was ten. In addition, the CCG have confirmed that their average placement rate is consistently at two per week.

7.1.9 Whilst the net monthly change in total active placements may be negative in some months, with more placements ending that commencing, the data assurance for the start-up and ongoing use of this contract capacity is monthly new placement rates, as the commissioners will prioritise the use of the block contract capacity as the preferred option for all new placements.

7.1.10 It is recognised that the speed and efficiency of the placement process will be vital to keep void levels as low as possible. Officers have recognised that a brokerage policy of using the new contract capacity for all 65+ nursing placements as the first and preferred option, whilst accounting for all service user and family choice policies in place, will also be critical to maintaining low levels of void bed-nights once the service is operational.

7.1.11 The financial sustainability risk in the care home market sector has also been considered. Whilst it is not possible to entirely mitigate all financial risk associated with any provider, the key actions that can be
taken with regards to this contract and in relation to the provider as a whole have been actioned.

7.1.12 In relation to this contract, sufficient capacity has been excluded from the block contract to ensure that the provider can maximise income from self-funders, whilst ensuring sufficiency of income through the block contract.

7.1.13 Regarding HC-One as an organisation, a Dun and Bradstreet financial resilience credit check has been carried out resulting in a low to moderate GREEN risk rating of 71 out of 100 (100 being the best possible score)

7.2 Legal
7.3 The Council has a duty to provide residential nursing care under the Care Act (2014) for any person who is: (i) normally resident in the borough; (ii) assessed as requiring this level of provision; and (iii) financially assessed as not able to meet the cost of their care.

7.4 Waltham Forest CCG have confirmed that they have followed their own legal procedures, and due diligence in awarding this contract.

7.5 The Memorandum of Understanding has been reviewed and agreed by the Council’s legal services.

7.6 Equalities and Diversity
7.6.1 An equalities analysis screening template has been completed and is attached at appendix 2.

7.6.2 There are no negative impact on equality or diversity as a result of this contract

7.7 Sustainability (including climate change, health, crime and disorder)
7.7.1 Health and wellbeing – nursing care represents the most complex level of health and social care need. This contract will enable the council to better meet those needs within the borough.

7.7.2 Transport and Air Quality – reducing the number of nursing placements that have to be secured out of borough reduces the travel impact of family, friends and carers visiting those in nursing placements.

7.7.3 Energy Efficiency – there are no current standards or requirements regarding the energy efficiency of care homes i.e. through a Display Energy Certificate (DEC) or Energy Performance Certificate (EPC). However, the facility was constructed circa 2000, and will adhere to the statutory energy efficiency standards and regulations at that time.

7.8 Council Infrastructure
7.8.1 There are no impacts on council infrastructure.
7.9 Brexit

7.9.1 There are no anticipated impacts of Brexit specific to this contract.

BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985)

None.