

Brighton & Hove City Council

Leader of the Council

Subject: Community Equipment Service Contract

Date of Decision: 4 August 2025

Report of: Corporate Director of Homes and Adult Social Care

Lead Officer: Name: Genette Laws

Contact Officer: Name: Andy Witham

Email: andy.witham@brighton-hove.gov.uk

Ward(s) affected: (All Wards);

Key Decision: Yes

Exempt from Call in: Yes

Reason(s) Key: Expenditure which is, or the making of savings which are, significant having regard to the expenditure of the City Council's budget, namely above £1,000,000 and is significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions (wards).

Note: Reasons for urgency

Due to the special circumstances outlined below, and in accordance with Regulation 10 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, compliance with the requirement to provide 28 days' notice has not been possible. The urgency of the matter has been agreed upon by the Chair of the relevant Overview and Scrutiny and it is deemed necessary to consider this item without delay, due to the urgency to award a contract and ensuring service continuity of this critical service.

1. Purpose of the report and policy context

- 1.1 This report seeks authority to enter into a call-off contract from a framework agreement, with Millbrook Healthcare Ltd (Co. Number 00833987) ('Millbrook') through a direct award for a 3 year period commencing 01/08/2025, at an estimated value of between £9m and £11m, for the provision of community care equipment and associated services.
- 1.2 Given the critical nature this request, approval is being sought under urgency powers set out in Part 3B, paragraph 10 and PART 3B1, paragraph 1.2 of the Constitution – Appendix to Executive Procedure Rules: Delegated Powers of Cabinet Members

2 Recommendations

- 2.1 That the Leader of the Council grants delegated authority to the Corporate Director of Homes and Adult Social Care to take all necessary steps to directly award a call off- contract to Millbrook from an existing framework (being the Integrated Community Care Equipment and Associated Services Y24008, under Lot 1 – Integrated Community Care Equipment and Associated Services) for a three (3) year period at an estimated value of up to £11m.

3 Context and background information

- 3.1 Nottingham Rehab Services Limited (Company No. 01948041) ('NRS') have provided community equipment services in the City of Brighton and Hove ('the City') for the last 9 years. This provides vital services to support both people being discharged from hospital to their homes including care homes but also supporting people to remain safely in their community through the provision of prescribed equipment tailored to support their needs.
- 3.2 The service has been operating pursuant to a contract dated 21 June 2023 made between the Council and NRS (trading as NRS Healthcare) ('the Contract'), from a local storage and delivery depot within the City. This facility serves as the central hub for storing and distributing equipment. Once the equipment has fulfilled its purpose, it is returned to the depot where it is cleaned and recycled for onward use.
- 3.3 The Contract is jointly funded by the Council and the NHS Sussex Integrated Care Board (ICB). The joint funding for 2025/26 financial year is divided as follows:
- | | |
|-----------------------|-------------------------|
| Council contribution: | £222,000 per annum; and |
| ICB contribution: | £2,614,000 per annum. |
- 3.4 Due to financial difficulties, the Council received a letter dated 18 July 2025 from NRS, confirming that it appeared likely that NRS would be unable to provide services under the Contract and would cease trading after 31 July 2025. At this point they will no longer be in a position to provide community equipment services in the City. Whilst they indicated that they would be willing to cooperate with transition arrangements to a new provider, as far as it was able to.
- 3.5 This is likely to be a significant service provider failure with wide ranging implications for the health and social care sector both locally and nationally. NRS currently have contracts with 42 local authorities (including a consortium of 21 London Boroughs).
- 3.6 It is important to note that the market for this type of integrated service is limited, with only 3 national providers in the market, being NRS, Millbrook and Medequip.

- 3.7 Over the last month, affected local authorities have been working on contingency plans to ensure some levels of service continuity. This has proven extremely challenging given the nature of the services provided, the limited market and number of local authorities impacted.
- 3.8 The Local Government Association ('LGA') and specifically Partners in Care and Health (PCH) within the LGA have been supporting local authorities, including the Council to work through the situation and provide some level of support and coordination where appropriate. A representative of the Department of Health and Social Care also confirmed, at an LGA meeting, that this provider does not meet the criteria required for their intervention (financial or otherwise) and that local authorities would need to put in place contingency plans themselves with the support of the LGA.
- 3.9 East and West Sussex County Councils both currently contract with Millbrook. As part of the Council's local contingency plans and through good relationships with colleagues in East and West Sussex County Council's, Officers agreed to approach Millbrook to explore the possibility of them providing some level of service within the City, both as an emergency response in the first instance but then a longer term arrangement.
- 3.10 Millbrook has responded positively to this approach and we have reached a position where they are able to implement an emergency service to support some level of service continuity in the short term (e.g. prescribing of most critical elements of equipment to support hospital discharge). Over the coming months, we will work to scale up services to deliver the full service offer. Officers are satisfied, following undertaking due diligence, that Millbrook offer the best value for the Council's requirement. A three year term had been suggested and agreed due to the logistical complexities of Millbrook taking on the service. Both Legal and Procurement officers also considered the three year term to be appropriate in the circumstances and would allow sufficient time to reprocur the services at the end of the 3 year term.
- 3.11 This will take time to mobilise fully and some of which is dependent on continued negotiation with NRS including in relation to TUPE of staff and transfer of existing assets. However, it is critical for the functioning of the local health and care system that some basic level of service is able to be delivered from when NRS cease trading.
- 3.12 Legal advice was sought and pursuant to the termination provisions in the Contract, notice to terminate, dated 21 July 2025, was served on NRS with effect from 30 days from receipt of the notice (ie 20 August 2025) or earlier if both parties agree.
- 3.13 On 31 July 2025, NRS acknowledged the Council's notice to terminate the Contract. Given the uncertainty around NRS's ability to continue trading beyond 31 July 2025 and reports that Millbrook would be taking over the services sooner on 31 July 2025, they sought confirmation on whether the termination date remains 20 August or if it will be brought forward. Officer's

responded confirming that the termination date remained as set out in the notice but invited NRS to confirm by return email and as a matter of urgency if they wish for the agreement to end sooner so that we can put in place contingency arrangements and that if they did not provide the required essential information by close of business, Wednesday 6 August 2025, the Council would look to serve a further notice to terminate with immediate effect.

- 3.14 NRS responded and suggested the Council terminates the Contract from close of business 31 July 2025. Given the need to put in place contingency arrangements, further notice to terminate has been served by the Council with immediate effect, superseding the prior notice to terminate. Following termination, NRS have confirmed that the majority of local authorities have issued NRS with notices of termination. They anticipated NRS would go into compulsory liquidation in the morning of Friday 1 August 2025 and that the Official Receiver, will be appointed as liquidator. This has now been confirmed.
- 3.15 The Council will now need to enter into the call-off contract with Millbrook. Given the time constraint, both parties would be proceeding at risk until the new contract can be finalised and sealed. Legal have advised officers, if permitted, to include provision in the specification clarifying that no form of volume guarantee is granted to Millbrook and no obligation to order a minimum number of goods/services.

4 Analysis and consideration of alternative options

- 4.1 Given the urgency of the situation and the need to have continuity of service the option as set out is the preferred option. The only other option would be to develop an in-house service but given the timescales and complexity this would not be possible.
- 4.2 The only other viable national provider in the market is Medequip. We have not approached them because Millbrook already operate in both East and West Sussex and as such this was determined to be the pragmatic solution. Through urgent discussions with Millbrook it has been determined this solution offers value for money and can be mobilised in the timescales we have available.

5 Community engagement and consultation

- 5.1 The lead cabinet member for Adult Social Care has been kept informed on the developments and is aware of the intended approach.

6 Financial implications

- 6.1 The Brighton & Hove Community Equipment Service is funded through the Better Care Fund (BCF) and provides a wide range of healthcare equipment and services. The BCF community equipment budget is £2.836m in 2025/26 (£2.614m funded by Sussex ICB and £0.222m funded by the Council).

- 6.2 The Better Care Fund allocation is agreed annually and has not been confirmed beyond the financial year 2025/26, and may impact on the availability of funding.
- 6.3 The new contract with Millbrook Healthcare, which would start from 1st August 2025 at a value of between £9m and £11m for 3 years. This represents a pressure of approximately £0.900m for 2025/26 financial year based upon spend to date from NRS and projected spend with Millbrook Healthcare. Any spend variance on the BCF overall at outturn is subject to a 50:50 risk share as per the section 75 agreement.
- 6.4 The budget will need to be reviewed as part of the BCF budget setting with Sussex ICB, as with increasing equipment and activity demand, the pressure may increase substantially in future years.

Name of finance officer consulted: Sophie Warburton
Date consulted: 28/07/25

7 Legal implications

- 7.1 Using the Integrated Community Care Equipment and Associated Services Y24008 framework to directly award the call-off contract, is a compliant route to market. As the framework was procured under the PCR 2015, the PCR 2015 will apply to the call-off contract, pursuant to the Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024/716 reg. 5). Regulation 33 (8)(a) of the Public Contracts Regulations 2015 (PCR 2015) sets out the criteria for making a direct award where a framework is concluded with more than one supplier.
- 7.2 The Council's Contract Standing Orders ('CSOs') will also apply to this procurement exercise. CSO 1.12 permits officers to direct award contracts subject to conformance with procurement legislation and consideration of CSO 1.10.
- 7.3 Now that the Contract has been terminated, the Council and Millbrook will need to contract at risk pending finalisation and sealing of the new call-off contract.

Name of lawyer consulted: Manjinder Nagra
Date consulted: 31/07/25

8 Risk implications

- 8.1 This service is critical to the functioning of the health and care system and as such, not having a replacement service in place would adversely impact both hospital discharge and ensuring residents have the equipment they need in place to ensure they can remain safe within the community. Not having this service would mean more people not being discharged from hospital in a timely manner and potentially more hospital admissions through lack of available equipment to support people within the community.

9 Equalities implications

- 9.1 An equalities and health impact assessment for the provision of community equipment services has previously been produced as part of the original tender process in 2022. Much of this would be relevant for the ongoing service as the service itself is the same but the change of provider will mean this will be reviewed within 6 months from service commencement.

10 Sustainability implications

- 10.1 The proposed service model encourages the reuse of equipment. Equipment recycling is a key performance measure within this contract and the provider will be expected to provide evidence of success in this area and how they will maximise recycling locally.

11 Health and Wellbeing Implications:

- 11.1 The community equipment service provides vital services to support both people being discharged from hospital to their homes including care homes but also supports people to remain safely in their community through the provision of prescribed equipment tailored to support their needs.
- 11.2 These services are critical to the functioning of the health and care systems and ensure people can access the equipment they need to support them in the community.

12 Procurement implications

- 12.1 Where a public authority is seeking to call off a contract from a framework that was procured under the Public Contracts Regulations 2015 (PCR 2015), it is generally the PCR 2015 that continues to apply to the call-off, not the Procurement Act 2023.
- 12.2 This position is made clear by the Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024/716 reg. 5, which states that, despite the revocation of the 2015 Regulations by the Procurement Act 2023, the PCR 2015 continue to apply (with certain modifications) to procurement procedures, contracts, and framework agreements in specific circumstances. These include cases where, before 24 February 2025, a contracting authority has awarded the contract or concluded the framework agreement or has taken various other procurement steps under the PCR 2015. Where the 2015 Regulations continue to apply, the Procurement Act 2023 does not apply to those procedures or contracts.

We would anticipate a timeline as follows:

Year 1: transition the contract to the new service provider and fix the service issues

Year 2: stable operation with accurate operational data that provides a basis for a re-procurement

Year 3: commence re-procurement and allow a phase-in period for a new service provider

This would suggest the earliest end to the contract is at 36 months.

Other options considered:

A competitive exercise

- This option was rejected due to the length of time required and the urgency of maintaining supply of these important items. The procurement regulations allow us to reject this option.

Direct Award to Millbrook non-framework agreement.

This was rejected because the framework use is more compliant.

13. Crime & disorder implications:

N/A

14. Conclusion

- 14.1 It is imperative that we have a functioning community equipment service in the City. The impact of not having this service in place and providing a level of continuity would adversely impact on the functioning of the health and care system and have a detrimental impact on City residents.