

Cabinet Member delegated decision

Decision due 30th September 2015

Report title: Settlement of dispute involving the sale of part of the Patmos Lodge site to Excelcare Holdings Limited

Wards: Vassall

Report Authorised by: Strategic Director of Commissioning Helen Charlesworth-May

Portfolio: Cabinet Member for Adult Social Care, Councillor Jackie Meldrum

Contact for enquiries:

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Report summary

As a condition of a contractual agreement made in 2001, Excelcare had the right to, *inter alia*, purchase a parcel of land at the Patmos Lodge site. The sale of the land was severely delayed, which caused the Council to incur potential liabilities. Following detailed negotiations a mutually beneficial settlement has now been agreed. This report is seeking approval/ authorisation to settle this long running dispute. The proposed settlement has been reached by the parties pursuant to advice provided by respective legal advisors and the Strategic Director and Cabinet Member for Adult Social Care are satisfied that, in all the circumstances, it represents the best interests of the Council.

Recommendations

- (1) To authorise the settlement as set out in Part 2 to this report.

Reason for Exemption from Disclosure

The accompanying part 2 report is exempt from disclosure by virtue of the following paragraphs of Schedule 12A to the Local Government Act 1972:

1. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
2. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

- 1.1 In 2001 the council signed a 15 year contract with Excelcare to purchase and redevelop three residential homes for older people that the council owned and operated. These were Limetrees, Windmill Lodge and Patmos Lodge. Only two of the sites were developed (Limetrees and Windmill Lodge), with the third building (Patmos Lodge) not developed due to changes in the council's strategic direction, with the emphasis of supporting people to live independently at home and to reduce the number of older people going into residential care.
- 1.2 During this time Lambeth Council also purchased beds at Queen's Oak, an 88 bedded unit in Peckham owned and run by Excelcare Holdings. This home was originally used as the de-cant for residents from the old Limetrees home in the first phase of the redevelopment. In total Lambeth Council has a contract with Excelcare Holdings for 273 beds across the three sites which it is legally bound to honour. Part 2 of this report sets out the detail on how the Council and Excelcare will now meet their contractual obligations which ostensibly puts the parties back to where they should have been had the contract been complied with.
- 1.3 Another element of the original contract is for the sale of the Land at Patmos Lodge to Excelcare for the sum of £1 million and this issue went to Asset Investment Management Group (AIMG) on the 8th May 2014 and that report went onto Asset Members Cabinet Advisory Panel (AMCAP) on 9th June 2014.

| Audit trail | | | | |
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| Consultation | | | | |
| Name/Position | Lambeth cluster/division or partner | Date Sent | Date Received | Comments in para: |
| Helen Charlesworth-May | Strategic Director | 16.3.15 | 11.08.15 | No comments |
| | | Resent 21.4.15 10.9.15 (at CMB) | 18.9.15 | No comments Report approved |
| Pete Hesketh | Business Partnering | 16.3.15 Resent 21.4.15 | 11.5.15 | 3.1 (part 2) |
| Michael O'Hora | Enabling: Integrated Support | 16.3.15 | 22.4.15 | 4.1, 6.1 (part 2) |
| | | Resent 21.4.15 Resent 14.8.15 | 14.8.15 | 1.3 |
| Maira McGrath | Integrated Commissioning | 21.4.15 | 5.5.15 | No comments |
| | | 10.9.15 (at CMB) | 10.9.15 | No comments Report approved |
| Maria Millwood | Integrated Commissioning | 21.4.15 | None received | |
| Dominic Stanton | Adult Social Care | 21.4.15 | 13.5.15 | 1.2 3.1 (part 2) |

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| Henry Langford | Democratic Services | 14.8.15 | 14.8.15 | |
| Wayne Chandel | Democratic Services | 12.5.15 | 13.5.15 | Report summary Recommendations (part 2) |
| Paul McGlone | Deputy Leader, Finance and Investment | 13.8.15 | 14.8.15 | |
| Jackie Meldrum | Cabinet Member for Adult Social Care | 11.8.15 10.9.15 (at CMB) | 13.8.15 10.9.15 | Report summery Para 11 (part 2) No comments Report approved |
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| Report history | |
| Original discussion with Cabinet Member | 12.6.15 |
| Report deadline | NA |
| Date final report sent | 9.9.15 |
| Report no. | |
| Part II Exempt from Disclosure/confidential accompanying report? | Yes |
| Key decision report | Yes |
| Date first appeared on forward plan | 2.7.15 |
| Key decision reasons | Expenditure, income or savings in excess of £500,000 |
| Background information | Policy doc ABC Govt advice DEF Cabinet report GHI |
| Appendices | None. |

APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:

Signature _____ **Date** _____

Post: Liz Clegg
Assistant Director, Integrated Commissioning Older Adults

I approve the above recommendations:

Signature _____ **Date** _____

Post: Helen Charlesworth-May
Strategic Director of Commissioning

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature _____ **Date** _____

Post: Councillor Jackie Meldrum
Cabinet Member for Adult Social Care

Any declarations of interest (or exemptions granted):

| Issue | Interest declared |
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