

Report for: Cabinet Member Signing

Title: Mandate to consult on a decision to close Osborne Grove Nursing Home on quality and safety grounds.

Report authorised by: Zina Etheridge, Interim Chief Executive

Lead Officer: Beverley Tarka, Director of Adult Social Services

Ward(s) affected: All

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration

- 1.1 Ensuring all adults lead healthy, long and fulfilling lives is a key priority of the Corporate Plan, Building a Stronger Haringey Together, 2015 – 2018. Whilst the Council faces a challenging financial climate over the coming years due to reducing funding and increasing demand, the Council's approach continues to be ambitiously focusing on improving outcomes for all residents, promoting independence and building choice and control.
- 1.2 Osborne Grove Nursing Home (OGNH) provides accommodation, personal and nursing care for adults over 65 with complex health needs. The Care Quality Commission (the CQC) has serious concerns about the quality of care at the nursing home. In January 2017, following an inspection of the nursing home, the CQC issued enforcement warning notices against the Council for breaches of the legal requirements relating to: safe care and treatment; meeting nutritional and hydration needs, person centred care and good governance. In March 2017, the CQC re-inspected and found that there were still breaches of the requirement and that none of the warning notices has been fully complied with. Despite the service improvements plans and interventions, there are still ongoing concerns and the home is under 'special measures'. The concerns are linked to entrenched issues relating to clinical and care practice and management oversight. There is an ongoing embargo on new placements given the serious issues with safety and quality of care.
- 1.3 This report seeks Cabinet's mandate to consult with service users, their carers and other stakeholders on the proposal to close OGNH due to the concerns over the quality of care and safety of residents following the CQC inspections.

2. Cabinet Member Introduction

- 2.1 We expect residents in our care settings to be treated with utmost professionalism and dignity at all times, and we are very sorry that standards at Osborne Grove have fallen below the high benchmark that we demand.
- 2.2 We are working closely with Osborne Grove residents and their families to discuss their needs in detail, consider next steps and ensure that residents get the appropriate care while a decision is made about the long-term future of Osborne Grove.

3. Recommendations

The Cabinet Member is asked to:

- 3.1 Approve for consultation with residents, carers and other stakeholders the proposal to close Osborne Grove Nursing Home.
- 3.2 Agree that a report on the findings of the consultation and the proposed recommendation be brought back to Cabinet for a decision.

4. Reasons for decision

- 4.1 In November 2015 a decision was taken by Cabinet to retain Osborne Grove as a nursing and residential provision and develop additional reablement and intermediate care provision on site in partnership with the NHS. The site comprises a 32-bedded nursing unit, with a day centre space and a large car-park in Stroud Green.
- 4.2 Since this decision was taken the home has been subject to a local authority led “Establishment concerns” process to manage through a number of essential improvements to service user safety and the quality of care. Alongside this process CQC inspected the home in December 2016, and then again in March 2017, and the home continues to be under special measures and is rated overall by the CQC as “Inadequate”. An embargo is in place, and there are currently 18 residents living in the site (down from 32 at full occupancy). The issues with the home are entrenched and linked to ineffective management and significant competency and performance issues. Despite significant resource investment from the Council to bring about change, it is likely given the lack of improvements realised that the current range of issues will remain into the foreseeable future.
- 4.3 Given the above, including the protracted staffing issues, that are impacting adversely on the standards required to ensure compliance, the proposal is that OGNH be closed on quality of care and safety grounds. There must be a period of consultation with residents, family members and other stakeholders on the proposal and before any final decision is made. The service will continue to work to meet full compliance with the required standards of care and ensure that residents care and support needs are met.

5. Alternative options considered

- 5.1 As noted above, there was an option to continue with the previous Cabinet decision to enter into partnership with the NHS to deliver the care at Osborne Grove Nursing Home. However, the on-going concerns with quality of care and resident safety on site has made this position untenable.
- 5.2 The Council could decide to await the outcome of the CQC re-inspection. But there are serious concerns about the sustainability of planned interventions and improvements and the wellbeing and safety of residents in the short and longer term.

6. Background information

- 6.1 OGNH is a nursing home for older people with complex health needs. The service has capacity for 32 beds spread across 4 units; there are currently 18 occupants due to an establishment concerns embargo that has remained in place since December 2016. The Care Quality Commission visited Osborne Grove Nursing Home on the 6th and 7th December 2016. Following the inspection, the report found the following:

Overall rating for this service: Requires Improvement

- Is the service safe: Inadequate
- Is the service effective: Requires Improvement
- Is the service caring: Good
- Is the service responsive: Requires Improvement
- Is the service well-led: Requires Improvement

In addition, four enforcement warning notices were issued in relation to;

- Safe care and treatment under Regulation 12, (1)(2)(a)(b)(e)(g)(h) of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.
- Meeting nutritional and hydration needs, under Regulation 14, (1)(4)(a)(b)(c), of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.
- Person-centred care under Regulation 9, (1)(a)(b)(c), of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.
- Good governance, under Regulation 17, (1)(2) (a)(b)(c)(d) of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

- 6.1.1 Compliance deadlines of 17th February and 31st January were given for the various warning notices. Following the receipt of warning notices, a clear action plan was developed to address the areas of concern highlighted within the stated timescales. There was a further CQC inspection on 22nd and 30th March 2017.
- 6.1.2 During initial feedback by the CQC inspector on 30th March 2017, it was observed that the service had failed to meet compliance standards in the four non-compliant areas outlined above. The final report of this inspection was published on 26th May 2017. A copy of the report is attached as Appendix 1. The report found that:

Overall rating for this service: Inadequate

- Is the service safe: Inadequate
- Is the service effective: Requires Improvement
- Is the service responsive: Requires Improvement
- Is the service well-led: Inadequate

6.1.3 In addition to the concerns following the CQC inspection, OGNH was also the subject of a referral to and action by the Safeguarding Adults Board (SAB).

6.2 External audit

6.2.1 As part of the Council's compliance monitoring, an external audit by Mazars (Council's External Auditor) was commissioned. This audit has been completed and feedback received is that the assessment of risk and control measures in place at OGNH have been found to be inadequate. This report is yet to be published.

6.3 Quality Assurance audit

6.3.1 A joint audit inspection was conducted by staff of the Haringey Clinical Commissioning Group (CCG) and the Local Authority Commissioning Team. The outcome of the audit concluded that there were still issue with regards to medicine management and maladministration; recording of nutritional and hydration compliance for high risk residents and lack of escalation of issues when these were observed.

6.4 Oversight Arrangements

6.4.1 In January 2017 A Joint Improvement Steering Group was set to oversee implementation of the Joint Improvement Plan. This was chaired by the Director of Adult Social Services (DASS) and attended by the following staff of the Local Authority: Safeguarding Lead, HR Partner, Commissioning Manager, Head of Operations, Project Manager and Members of the OGNH Management Team. In addition, the Head of Safeguarding and Quality Assurance Manager from the CCG were also members of this Group. To date three meetings have been held. The role and responsibility of this Joint Improvement Group is to have oversight of the work to ensure compliance by OGNH, identify any constraints barriers and develop and implement mitigating actions. The group has oversight of the following actions and measures aimed to ensure safe care and treatment, meeting nutritional and hydration needs, person centred care and good governance of patient care at OGNH. They include

- Upgrading individual supervision plans to ensure regular supervision of a range of measures such as food and fluid intake; medical conditions; safeguarding; medication, and mental health support.
- New documentation for monitoring all daily care interventions.
- Introducing daily care files for all residents.

- Introducing shift briefs for all staff to ensure they are clear what is expected of them.
- Better monitoring of staff compliance and competency.
- Identifying high-risk residents for more frequent food and fluid monitoring.
- Daily random care quality spot checks.
- New mattresses for residents where necessary.
- Additional staff training including: assessment and care planning; hydration and nutrition; infection control; palliative care; pain relief; pressure ulcers, and catheter care.
- New medicine and infection control policies.
- Updated fluid balance and urine output charts.
- New food menus.
- Increased checks by allocated registered nurses, nurse consultant and deputy manager.
- Regular weighing of those at risk.
- Improved monitoring and tracking of care given.
- Dedicated care home support from social worker and a nurse.
- Fortnightly risk management forum with management team and registered nurses.
- Establishing a care home support team.
- Personal development plans for all nurses, including development and assessment in key areas of care.
- Standards setting procedures for all staff and disciplinary action where appropriate.

6.4.2 While some progress has been made, it is clear that this has not been at the pace that we would have expected, and it is vital that further action is taken to ensure safe care and treatment of residents at the home.

6.4.3 Staffing standards, knowledge and competency remains the outstanding major weakness to reaching full compliance. Confidence in maintaining care and health of patients is the significant management oversight and audit processes currently in place. This approach cannot be sustained in the short term.

There needs to be considerable improvement in the quality of care, and this remains the focus of the home.

6.5 Risk Management

6.5.1 A social worker from the Local Authority Safeguarding team commenced at OGNH on 9th May 2017. The task of the social worker includes the proactive management of risk identified in the CQC inspection; risk assessments are being reviewed, updated and options for managing risks and the priority and timescales in which they need to be dealt with and identified. This activity will serve as an additional check on the work of the clinical and management staff of OGNH.

6.5.2 The additional management and clinical resources are to be maintained to ensure appropriate oversight that will ensure patient safety.

6.5.3 The recommendations of the Mazars audit to be implemented once report received.

6.5.4 The recommendations of the Commissioning audit to be implemented once report received.

6.5.5 The Joint Improvement Steering Group will continue to meet with increased frequency to review the report from audit and review reports on patient care on a regular fortnightly basis.

6.5.6 Overall the Council will maintain the continuity of care for all service to ensure statutory obligations continue to be met. Also, the Council will continue to take the necessary action to reduce risk, maintain the wellbeing of residents and ensure the measures referred to above achieve this. These interventions are not sustainable in the longer term and, therefore, in the interests of the safe care and treatment of residents of OGNH, it is important that the Council considers closure and alternative provision for residents. The current concerns for the service are serious and urgent.

6.6 Consultation

6.6.1 Through the consultation we will stress 3 core commitments:

- Our commitment to meet our statutory responsibilities to continue to provide services that meet the needs of adults assessed as requiring services.
- Our commitment to safeguard adults at risk.
- Our commitment to continue to work to meet the standards as set by CQC.

- 6.6.2 It is proposed that consultation will take place with residents, their families and carers, important stakeholders such as the CCG, residential providers, hospitals and OGNH staff. Through the consultation we aim to obtain the views of all stakeholders on the proposal to close OGNH. Where necessary, Independent Advocacy will be offered to people who use OGNH to ensure that they are able to fully participate in the consultation process. Workshops and feedback sessions will be available for users of the affected services, as well as their carers. Consultation methods will include face-to-face interviews, meetings and an on-line consultation questionnaire. It is proposed that consultation will be for a period of up to 90 days, subject to Cabinet approval.
- 6.6.3 Following the consultation, the outcome will be brought back to Cabinet for a final decision on the future of OGNH to be made.

7. Contribution to strategic outcomes

- 7.1 The Corporate Plan, Building a Stronger Haringey Together, sets out the vision and priorities for the Council. This includes the vision to enable all adults to live healthy long and fulfilling lives. The Director of Social services has a statutory duty to ensure that vulnerable adults are safeguarded and also has lead responsibility under the Care Act 2014 for managing provider failure.

8. Statutory Officers comments (Chief Finance Officer, Procurement, Assistant Director of Corporate Governance, Equalities).

8.1 Finance (ref: CAPH28)

- 8.1.1 There are 18 clients currently resident in Osborne Grove. Were the home to close, alternative provision would have to be found for these clients. This would be likely to cost an average of £900 p/w per client, a full year total of £842,000.
- 8.1.2 There are no MTFS savings associated with Osborne Grove in 2017/18.

8.2 Procurement – Head of Procurement

- 8.2.1 Strategic Procurement notes the contents of this report; however, there is no procurement input required at this stage, depending upon the outcome of the Cabinet decision, procurement will be engaged in relation to any consequential procurement activity.

8.3 Assistant Director of Corporate Governance

Under Section 29 of the Health and Social Care Act 2008 (the Act), the Care Quality Commission (CQC) has served a Warning Notices on the Council in respect of the failings in the provision of accommodation and personal care at Osborne Grove Nursing Home. Section 29 allows the Commission to give a warning notice to a registered provider when they have failed to comply with the relevant requirements in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (The Regulations). The warning notice sets out the failure that appears to the Commission to have taken place and the requirement that appears to have been breached. It also requires the Council to comply with the requirement within a specified timeframe, stating that further action may be taken if the failure is not put right in that time.

The Regulations lay down fundamental standards to be met by the Council in respect of the provision at Osborne Grove. The fundamental standards found to have been breached are that: care and treatment must be appropriate and reflect service users' needs and preferences (Regulation 9); care and treatment must be provided in a safe way (Regulation 12); service users' nutritional and hydration needs must be met (Regulation 14); and systems and processes must be established to ensure compliance with the fundamental standards (Regulation 17). As indicated above, if these breaches continues, the Commission can take further action of which include cancellation of registration of Osborne Grove as a care home where it believes there is a serious risk to the health or wellbeing of service users (Section 30 of the Act: Urgent procedure for cancellation) or suspension of registration as a service provider where it believes that any person will or may be exposed to the risk of harm Section 31 of the Act: Urgent procedure for suspension etc).

- 8.3.1 There is a common law duty on the Council to consult with service users, carers and other stakeholders that are likely to be affected by the proposed closure. The consultation must take place at a time when the proposals, as with the recommendations, are still at their formative stages. The Council must provide the consultees with sufficient information to enable them properly to understand the proposals being consulted upon and to express a view in relation to it. The information must be clear, concise, accurate and must not be misleading. The consultees must be given adequate time to consider the proposals and to respond. The Council must give genuine and conscientious consideration to the responses received from the consultees before making its final decision on the proposals.
- 8.3.2 As part of its decision making process, the Council must have "due regard" to its equalities duties. Under Section 149 Equality Act 2010, the Council in exercise of its adult care and support functions, must have "due regard" to the need to eliminate discrimination, advance equality of opportunity between persons who share a protected characteristic and those who do not, foster good relations between persons who share a relevant protected characteristic and persons who do not share it in order to tackle prejudice and promote understanding. The protected characteristics are age, gender reassignment, disability, pregnancy and

maternity, race, religion or belief, sex and sexual orientation. In line with its equalities duties, the Council must undertake an Equality Impact Assessments (EIA) of the proposals on the protected groups. The Council is required to give serious, substantive and advance consideration of the what (if any) the proposals would have on the protected group and what mitigating factors can be put in place. This exercise must be carried out with rigour and an open mind and should not be a mere form of box ticking. These are mandatory consideration. The outcome of the consultation on the proposals together with the analysis of the EIA must be considered before reaching a final decision on the proposals.

8.4 Equality

8.4.1 As mentioned above, the Council has a public sector equality duty under the Equality Act (2010) to have due regard to the need to:

- tackle discrimination, harassment and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not; and
- foster good relations between people who share those characteristics and people who do not.

8.4.2 OGNH provides accommodation for adults over the age of 65 who require nursing or personal care. There are currently 18 residents at OGNH and the proposal for closure would require any existing residents to move from OGNH to alternative provision. Because of the age, physical and mental disabilities and other care and support needs of the individuals concerned, any move would need to be managed sensitively. We do not underestimate the anxiety and concern that may be felt by residents and their families by this proposal. Our engagement and consultation with residents and their families will help us to better understand any negative impact based on the protected characteristics that the proposals may have and how we may mitigate this. In addition, the Council is mindful that reasonable adjustment and support and assistance will be required to enable residents to engage in the consultation process. As indicate above, where necessary Independent Advocacy will be offered to ensure they are able to participate in the consultation.

8.4.3 A full equality impact assessment will be published with the final decision and will incorporate any equality issues raised in the consultation.

9. Use of Appendices

9.1 Publication of the CQC Re-inspection report dated 26th May 2017 (http://www.cqc.org.uk/sites/default/files/new_reports/INS2-3244794997.pdf)

10. Local Government (Access to Information) Act 1995

10.1 N/A