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<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE MEETING ON SEPTEMBER 20, 2016</b>
<b>FROM:</b>	<b>SANDRA DATARS BERE MANAGING DIRECTOR, HOUSING, SOCIAL SERVICES AND DEARNESS HOME</b>
<b>SUBJECT:</b>	<b>HEALTH PARTNER GATEWAY PORTAL THE CORPORATION OF THE CITY OF LONDON - DEARNESS HOME</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Administrator, Dearness Home, and with the concurrence of the Managing Director, Housing, Social Services, and Dearness Home, the attached proposed by-law (Appendix A) BE INTRODUCED at the Municipal Council meeting to be held on September 27, 2016 to:

- a) authorize and approve the Health Partner Gateway Data Sharing Agreement (DSA) and Network Services Agreement (NSA), (attached as Schedule 1 and Schedule 2, respectively to the by-law), between The Corporation of the City of London and the Ontario Association of Community Care Access Centres and other Participants; and
- b) authorize the Mayor and the City Clerk to execute the Agreements authorized and approved in a), above.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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None.

<b>BACKGROUND</b>
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In order to be admitted to any Long Term Care home or Adult Day Program in Ontario, the applicant must first be assessed by the Community Care Access Center (CCAC) to determine their eligibility by completing assessments of the applicant's overall health and behavioural status. All applicant assessments to the Long Term Care (LTC) and Adult Day Program (ADP) are currently received by fax.

The Community Care Access Centre (CCAC) will be eliminating the use of fax transmissions as a method of communication to provide applications and updates to Long Term Care (LTC) homes and Adult Day Programs (ADP), as outlined in the attached letter (Appendix B). As an alternate measure, the Ontario Association of Community Care Access Centres (OACCAC) has developed the Health Partner Gateway (HPG) portal to house the information on a secure electronic platform. In order to continue to fill vacancies, Dearness Home will be required to enter into a Health Partner Gateway Data Sharing Agreement (DSA) and a Network Services Agreement (NSA) with OACCAC, attached as Schedule 1 and Schedule 2 to the attached proposed by-law (Appendix A).

The Health Partner Gateway (HPG) was initiated by OACCAC three years ago, and is currently being utilized across Ontario by CCACs, hospitals, LTC homes (private, not-for-profit, and municipal), community support service agencies, and CCAC-contracted provider agencies. The HPG is a web-based portal that will house all of an applicant's assessment information online to be retrieved by the reviewing LTC home. If the Home requests more information, the request will be shared automatically via the HPG. Similarly, as residents and clients move from one LTC home or ADP to another, assessments can be uploaded to the portal so that other LTC homes and ADPs



have up-to-date information to make a determination regarding an offer of admission.

If The Corporation of the City of London chooses not to enter into the above agreements, the only alternative would be to physically pick up applications from the CCAC office in person, and transit them back to Dearness Home for review. The latter process could delay the timeliness of the Home's response to applicants, and could also result in more days with empty beds, which ultimately has implications on the Home's occupancy and funding.

### **HPG Summary of Privacy and Security Safeguards**

Dearness staff who will have access to the portal will receive in-depth training on their roles and responsibilities regarding the safeguarding of information. LTCs and ADPs will have separate accounts and access rights. By virtue of being in LTC (and thus having a file with CCAC), consent for the sharing of residents' information is informed, collected, and retained by CCAC.

Information Technology Services (ITS) has also completed a security assessment of the HPG portal system and has found no concerns with the integrity of the system. ITS has assessed the HPG portal system as having a "low" likelihood of a privacy breach.

### **Review of Data Sharing and Network Services Agreements**

A comprehensive review of the various aspects of the Data Sharing Agreement and the Network Services Agreement has been undertaken, and the Dearness Home has policies and training in place to ensure a successful roll out of the HPG portal. The following aspects were considered and addressed as part of the review process:

- The Dearness Homes' ability to comply with the Personal Health Information Protection Act (PHIPA) and the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).
- Compliance with the City's data security requirements.
- Liability indemnification and insurance provisions.
- Ongoing and documented education and training for all network users.
- Designation of a Privacy Officer who is fully informed of their obligations under this agreement.
- Designation of a contact person and primary contact with other participants.
- Implementation of an access control policy.
- Designation of authorized users to access the shared system in accordance with the access control policy.
- Compliance with all the requirements of the DSA and NSA.

It should be noted the Administrator of the Home will be responsible for the administration of the Data Sharing and Network Services Agreements.

### **Risk Considerations**

Data Sharing Agreement:

The indemnification provisions of the contract appear to be unworkable in a situation in which the liability in negligence of more than one participant is an issue.

Network Services Agreement:

*Each Participant agrees to indemnify and hold the Association harmless from and against any and all damages, costs, liabilities, expenses and settlement amounts, which may incur or surer relating to any claim by a Participant or any third party that the Association may defend or settle in respect of this Agreement or otherwise related to the provision of the HPG and the Services (the "Claim"), except where due to the malicious actions of the Association (the "Participant Indemnity"). The amount of indemnification for which each Participant will be responsible under this section 10.02 will be allocated equitably among the applicable Participants.*

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Clause 10.02 exposes The Corporation to having to indemnify CCAC for its negligence.

The City’s liability arises from potential breaches of PHI or PI (Personal Information), either at the Home’s end or by a Participant, especially given the new tort of Invasion of Privacy and potential class action lawsuits. There are many instances from the case law which indicate that staff have breached confidentiality out of personal curiosity, hoping to find information about people they may know, or even people they do not know. If such a breach occurs by the Corporation’s staff, the Corporation could face a class action lawsuit based on the tort of intrusion upon seclusion, as well as resulting damage to reputation, and a possible investigation and charges by the Privacy Commission. There will be measures put in place to safeguard such personal information or personal health information from such breaches. Safeguards and audits will be implemented, and policies will be implemented and adhered to.

**Summary and Recommendation**

In summary, the HPG portal is the future of communication between CCACs, LTC homes, hospitals, and Community Care service providers. With the phase-out of fax referral transmissions, the unworkable alternative of physically collecting applications from the CCAC office, and with a significant portion of Dearness Home’s funding relying on occupancy, it is the recommendation of the Dearness Home administration that the HPG portal Data Sharing and Network Services Agreements be approved and executed, despite the risk considerations above. Following in the footsteps of our LTC colleagues across the Province who have already implemented the portal, accepting the Agreements further shows Dearness Home’s commitment to evolving and adapting to new best-practices, and, most importantly, the Home’s commitment to excellent customer service for applicants to the Home; the secure sharing of information electronically will ease waiting times for applicants as well as current residents transferring to/from hospitals and other LTC homes, as well as making the admission process more efficient.

<b>SUBMITTED BY:</b>	
<b>GRAEME WOOD</b> <b>SOCIAL WORKER</b> <b>DEARNESS HOME</b>	
<b>RECOMMENDED BY:</b>	<b>CONCURRED BY:</b>
<b>ANGIE HEINZ</b> <b>ADMINISTRATOR, DEARNESS HOME</b>	<b>SANDRA DATARS BERE</b> <b>MANAGING DIRECTOR</b> <b>HOUSING, SOCIAL SERVICES and</b> <b>DEARNESS HOME</b>

- CC:**
- A. Zuidema, City Manager
  - C. Saunders, City Clerk
  - L. Marshall, Solicitor
  - K. Murray, Senior Financial Business Administrator
  - J. Wills, Risk Management
  - J. Brown, Finance and Corporate Services
  - N. Rexhvelaj, Manager of Accounting and Reporting
  - B. Hall, Regional Director, Extendicare Assist