

	Officer Key Decision 20 June 2023
	Report to the Corporate Director, Children and Young People
Authority to vary and extend a contract in respect of the provision of Speech and Language Therapy for children and young people in mainstream schools, family wellbeing centres and linked early years settings	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers¹:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Shazia Akram Head of Forward Planning, Performance and Partnerships Email: Shazia.akram@brent.gov.uk Sharon Buckby Head of Inclusion and Brent Virtual School sharon.buckby@brent.gov.uk Tenidola Awoyemi Head of Early Help Tenidola.Awoyemi@brent.gov.uk

1.0 Purpose of the Report

- 1.1 This report requests authority to vary and extend a contract in respect of the Provision of Speech and Language Therapy (SALT) for Children and Young People in mainstream schools, Family Wellbeing Centres and linked early years settings with Central London Community Health NHS Trust as required by Contract Standing Order 112. The report summarises the reasons for the request to vary and extend the contract and sets out the nature of the variation and the duration of the extension.

2.0 Recommendation(s)

That the Corporate Director, Children and Young People (CYP) in consultation with the Lead Member for Children, Young People and Schools:

- 2.1 Approves the variation of the contract for provision of SALT for children and young people in mainstream schools, Family Wellbeing Centres and linked early years settings with Central London Community Health NHS Trust to permit the extension of the contract by a further 12 months from 1 April 2024 to 31 March 2025.
- 2.2 Approves the extension of the contract detailed in Recommendation 2.1 for a period of 19 months from 1 September 2023 to 31 March 2025 as follows:
 - 7 months extension from 1 September 2023 to 31 March 2024 at a value of £625,623
 - 12 months from 1 April 2024 to 31 March 2025 at a value of £1,104,672

3.0 Detail

- 3.1 The Council entered into a contract for provision of SALT for children and young people in mainstream schools, Family Wellbeing Centres and linked early years settings with with Central London Community Health NHS Trust on 1 April 2019 (the "Contract").
- 3.2 The initial contract period was for two years from 1 April 2019 to 31 March 2021, with an option to extend for up to a further 3 years. In April 2022, the Strategic Director of Children and Young People approved an extension to the contract with Central London Community Health Trust (CLCH) from 1 April 2022 to 31 August 2023. It was anticipated that during this time joint delivery options would be pursued for all Speech and Language Therapy, Occupation Therapy and Physiotherapy with local health partners.
- 3.3 Brent Integrated Care Partnership (ICP) has identified key priorities for children and young people. This includes a priority programme for therapies, which includes a review the delivery of SALT in Brent for children and young people with Special Educational Needs and Disabilities and on Special Educational Needs (SEN) support by December 2023. This services commissioned by the local authority are in scope of the review, with a view to establishing efficiencies by aligning funding and redesigning the offer in partnership with health partners and Public Health.
- 3.4 As the review is still ongoing, the current contract needs to be extended until such time as a new approach has been determined. Officers have therefore entered into discussions with Central London Community Health (CLCH) NHS Trust (the "Contractor") to vary and extend the contract as follows:
 - Extend the contract by 7 months as provided for in the contract from 1 September 2023 to 31 March 2024 at a value of £625,623

- A further 12 months extension in addition to the original term of the contract from 1 April 2024 to 31 March 2025 at a value of £1,104,672

CLCH have agreed in principle to the extension for a further 19 months from 1 September 2023 to 31 March 2025.

- 3.5 Under the Children and Families Act 2014, Local Authorities have a responsibility to meet the educational needs of children and young people as stated in a child or young person's Education Health and Care Plan (EHCP).
- 3.6 The current contracted service delivers an equitable and inclusive SALT service for children and young people with SEND who have an EHCP and support for children aged 0 to 5 and their parents who attend Brent Family Wellbeing Centres and linked early years settings.
- 3.7 The contracted service adheres to all aspects of the SEND Code of Practice 2015 (updated October 2020). The service supports delivery of the priorities identified in the SEND strategy 2021 – 2025:
- Education, employment and training
 - To live a healthy lifestyle
 - To be fully active citizens of Brent.
 - To live independently
 - My Brent - The voice of young people to be heard in shaping the Brent of the future.
- 3.8 The service performs well. Demand for SALT services provided by Brent Council is high and increasing and the service has responded accordingly. In terms of early years:
- Attendance at 'Let's Talk' sessions providing targeted SALT support to children and their parents in Family Wellbeing Centres increased from 445 in the Quarter 3 to 514 in Quarter 4.
 - CLCH has been involved Best Start for Life providing attendance at the subgroups and consultations to actively shape the programme. The service has continued to run outreach sessions in Brent Libraries. These sessions highlight tips and strategies to encourage communication in under 5's as well as information on Family Wellbeing Centres and Speech, Language Therapy. This quarter the service carried out a session in partnership with the Brent Oral Health team and delivered a number of workshops as part of the Brent Early Years Conference and feedback was very positive.

At the end of the Quarter 4 in 22-23 (which covers the period Jan 2023 to March 2023), 583 children and young people were receiving SALT in mainstream schools or Further Education settings, compared to 449 children and young people at the end of Quarter 3. Provider performance in mainstream schools during this period shows:

- This quarter the service offered a total 1,529 contacts.
- In 2022/23 the SALT service offered a total of 5,303 appointments to meet the SLT provision in section F of CYP with and EHCP.

- The SLT service completed 61 Education Health Care Needs Assessments. This number includes EHC NA for pre-school and school aged CYP (primary, secondary and FE).
- In 22/23 the SaLT service completed 260 EHC NA. In the academic year 2021-2022 the SLT service completed 193 EHC NA reports.
- A total of 9 INSET training sessions were carried out within Brent Primary and Secondary Schools (some schools requested more than 1 training package) 75% of participants strongly agreed and 25% agreed that the training provided helpful information.
- The SLT team has been preparing Year 11 students for successful transition to further education / college, which involves completion of information passports and reviewing communication strategies. Final reports have been completed with all students and discussed /shared with parents

3.9 The provider is considered to give good value for money against the current specification. While there are other health trusts who could provide the service, there is added value in this service being delivered by CLCH as it is aligned with their delivery of Brent's community SLT services. A full tender process would take at least 10 months, including TUPE processes, and there would be no point in following this process in advance of the planned service redesign work.

3.10 Officers in CYP are recommending exercising the option to extend the current contract from 1 September 2023 to 31 March 2024 to ensure continuity of service. Officers are also seeking a further extension by 12 months from 1 April 2024 to 31 March 2025 for the reason detailed in paragraphs 3.3 and 3.4. The 19 month extension being sought will allow time for the ICP to develop an approach around alternative delivery models following the outcomes of the review.

3.11 The original estimated total value of the contract is £3,835,707 over 5 years (a 2 year contract with the option to extend by up to 3 years). The contract value in Year 1 (2019/20) was £709,253 of which £470,627 was Dedicated Schools Grant (DSG) and £238,626 was from the General Fund. In Year 2 (2020/21) the contract value was £799,675 of which £561,049 was DSG and £238,626 was from the General Fund. In Year 3 (2021/22) the cost is £951,323, inclusive of the approved variation applied in September 2021 to meet demand (£83,451), of which £712,697 is DSG and £238,626 is General Fund.

3.12 A five (5) month extension was applied to the contract from 1 April 2022 to August 2022 at a cost of £433,8582. Out of this amount, £334,429 was funded by DSG and £99,428 from the General Fund. A further 12 months extension was approved from 1 September 2022 to 31 August 2023 at a cost of £1,054,277. Out of this amount, £815,650 was funded by the DSG and £238,626 from the General Fund. The cost of the extension from 1 September 2023 to 31 March 2025 is £1,730,296 of which DSG is funding £1,352,472 and £377,824 comes from the General Fund. This extension would bring the total cost of the current contract over Years 1-6 (inclusive of the additional 12 months extension) to £5,678,685. The contract value has increased in line with demand and rising cost of living.

3.13 The variation and extension would:

- Provide sufficient time for officers to review current practice and service structures to inform the future structure of service delivery.
- Provide continuity of SALT for pupils in mainstream schools and for families accessing support through the Family Wellbeing Centres and linked early years settings. CLCH is delivering a good service and staff have established good links with schools.
- Ensure the Local Authority continues to fulfil its statutory duties.

3.14 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Corporate Directors may only vary and extend contracts and agreements provided that:

- (a) the variation and extension would not be in breach of Procurement Legislation.
- (b) the variation and extension do not substantially alter the terms and conditions of the contract.
- (c) there is sufficient existing budgetary provision.
- (d) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:
 - (i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of six months; or
 - (ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.
- (e) provided that in the case of any variation (other than an extension):
 - (i) the total value of the variation is less than £1m; and
 - (ii) if the total value of the variation (and any previous variations agreed under this provision) is more than £50k it is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).
- (f) the relevant cabinet member shall be consulted prior to a decision within (d) (i) or (ii) and (e) (i) and (ii) above and may request that the decision instead be referred to them.

3.15 It is considered that the Corporate Director has delegated authority pursuant to paragraphs 9.5 of Part 3 of the Constitution to agree the variation and extension as, addressing the matters raised in paragraph 3.13 above:

- (a) Extension by 7 months from 1 September 2023 to 31 March 2024 is provided for in the Contract and is thus permitted in accordance with Regulation 72(1)(a) of the Public Contracts Regulations 2015 (“PCR 2015”). Variation of the Contract to permit an extension of a further 12 months from 1 April 2024 to 31 March 2025 is considered to be permitted in accordance with Regulation 72(1)(b) of the PCR 2015 given the original term and value of the contract and the reasons set out in this Section 3.
- (b) Save for the additional 12 month extension, all other contract terms and conditions remain the same and therefore the proposed variation and extension do not substantially alter the terms and conditions of the contract.
- (c) As confirmed in the Financial Implications at Section 4, there is sufficient existing budgetary provision for the variation and extension.
- (d) The additional extension beyond the period of extension provided for in the contract is for a period of 12 months and therefore is permitted in accordance with (d)(ii) above.
- (e) As the variation merely relates to an extension, paragraph (e) above is not relevant.
- (f) As detailed in paragraph 7.1, the Lead Member for Children, Young People and Schools has been consulted concerning the recommendations set out in this report and has not requested that the decision is referred to them for determination.

4.0 Financial Implications

4.1 The total value of the contract for 19 months from 1 September 2023 to 31 March 2024 equates to £1.73m. This contract continues to be funded from the High Needs Block of the DSG and the General Fund as illustrated in the table below. Compared to 2022/23 this represents a 4% increase as a result of increased demand and this will need to be managed within funding available in 2023/24 and 2024/25.

Financial Year			Total Contract
2023/24 (Sept – March)	£0.484m	£0.139m	£0.623m
2024/25	£0.866m	£0.239m	£1.105m

5.0 Legal Implications

- 5.1 Officers recommend the variation and extension of the Contract as set out in paragraphs 2.1 and 2.2.
- 5.2 The value of the original contract is such that it is subject to full application of the Public Contract Regulation 2015 (PCR 2015).

- 5.3 A contract may only be modified (to include an extension) without a new procurement procedure where this is done in accordance with Regulation 72 of the PCR 2015. Regulation 72 sets out various circumstances in which it is possible to vary and extend a contract. As detailed in paragraph 3.14 (a), the Council is able to rely on Regulation 72(1)(a) and (b) of the PCR 2015 in varying and extending the contract.
- 5.4 In accordance with Contract Standing Order 112, the Corporate Director should only agree to extend the contract if the extension will achieve best value and is reasonable in all the circumstances. The Corporate Director is referred to Section 3 for further information.
- 5.5 The Corporate Director is authorised pursuant to Paragraphs 9.5 of Part 3 of the Constitution to extend and vary contracts subject to the conditions set out in paragraph 3.13 above. As set out in paragraph 3.14 above, none of these conditions preclude the Corporate Director agreeing the recommended variation and extension.

6.0 Equality Implications

- 6.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:
- a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 6.4 There is no prescribed manner in which the Council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.
- 6.5 It is considered that there have been no changes in equality implications of the proposals set out in this report since the beginning of the contract and that there is no disproportionate effect on any particular protected characteristic group and no adverse equalities implications.

7.0 Consultation with Ward Members and Stakeholders

7.1 The Lead Member for Children, Young People and Schools has been consulted and supports the approach set out in this report. The Lead Member has not requested that the variation and extension decision is referred to them for determination.

8.0 Human Resources/Property Implications (if appropriate)

8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from varying and extending the contract.

Report sign off:

Shirley Parks
Director, Education, Partnerships and Strategy