

	<b>Decision of Cabinet Member for Public Health and Adult Social Care</b>
	<b>Report from the Corporate Director, Care, Health and Wellbeing</b>
<b>Authority to vary and extend the contract for Children's Public Health Services 0-19 years (Health Visiting &amp; School Nursing)</b>	
<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Non Key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>List of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Marie Mcloughlin Consultant in Public Health <a href="mailto:marie.mcloughlin@brent.gov.uk">marie.mcloughlin@brent.gov.uk</a>

## 1.0 Executive Summary

- 1.1 This report requests individual Cabinet Member approval to vary and extend a contract in respect of Children's Public Health 0-19 years (Health Visiting and School Nursing) with Central London Community Health Care NHS Trust in accordance with paragraph 13 of Part 3 of the Constitution. The report summarises the reasons for the request to vary and extend.

## 2.0 Recommendation(s)

That the Cabinet Member for Public Health and Adult Social, having consulted with the Leader:

- 2.1 Approves the variation of the contract for Children's Public Health 0-19 years (Health Visiting and School Nursing) with Central London Community Health Care NHS Trust as set out in paragraphs 3.2.8.
- 2.2 Approves the extension of the contract detailed in 2.1 above for a period of 1 month from 1<sup>st</sup> April 2024 to 30<sup>th</sup> April 2024.

## 3.0 Detail

### **3.1 Contribution to Borough Plan Priorities & Strategic Context**

3.1.1 Officers are to recommend to Cabinet in April 2024 the award of a new 0-19 contract (health visiting and school nursing) contract to Central London Community Health Care NHS Trust as a direct award. This new contract will commence on 1 May 2024. To ensure that there is no gap in services given the current contract is to expire on 31<sup>st</sup> March 2024, Officers recommend the extension of the current contract for 1 month. Officers consider that the Recommendation to extend this contract will contribute to Borough Plan Priorities as follows:

- (a) The Brent Borough Plan 2023 – 2027 priorities focus on babies getting the best start in life. This service will work with families and children to ensure nurturing and bonding are developed. It also links to a “a healthier Brent”. The service will combine efficient universal provision with tailored and targeted interventions for those communities who find services hard to access.

### **3.2 Background**

3.2.1 The Council entered into the current Children’s Public Health 0-19 years (Health Visiting and School Nursing) with Central London Community Healthcare NHS Trust (“CLCH”) in June 2017 (the “Contract”).

3.2.2 The existing 3+2 year Contract was awarded following a redesign of the specification for school nursing and health visiting specifications by the Council’s public health team in consultation with CYP, early years’ providers, schools, GPs and families. The Contract had a total value of £27.169 million.

3.2.3 In the last 2 years, the health and social care landscape has fundamentally changed because of the introduction of the Health and Care Act 2022. The previous commissioning / provider relationships and competitive procurement regime are being replaced by new duties of collaboration and the creation of Integrated Care Systems (ICS) which bring together NHS commissioners and providers in sub-regional groupings.

3.2.4 The Contract was initially due to expire on the 31 March 2022. Rather than commissioning a replacement contract, Officers considered that the Contract would be one that would be dealt with under the Provider Selection Regime (PRS) which was to be introduced under the Health and Care Act 2022. However, due to the delay in the introduction of PSR, it became necessary to extend the Contract until 31<sup>st</sup> April 2023 using powers delegated to Officers under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution.

3.2.5 Due to continuing uncertainty over the timing for the introduction of the Provider Selection Regime to be passed in Parliament, approval was sought and granted to further extend the contract until 31<sup>st</sup> March 2024. As this extension was in excess of Officers delegated powers, Cabinet member approval was sought in accordance with paragraph 13 of Part 3 of the Constitution.

3.2.6 Whilst the Health and Care Act 2022 (“HCA 2022”) was largely implemented in 2022, the commissioning of contracts under the PSR was not implemented until 1<sup>st</sup> January 2024. The HCA 2022 will impact the way in which clinical services will be commissioned in the future.

3.2.7 In view of this delay in implementing the PSR, Officers recommend an extension of the current contract to allow for award of a new contract under the PSR. Officers are to recommend to Cabinet in April 2024 the award of a new 0-19 (health visiting and school nursing) contract to Central London Community Health Care NHS Trust. This new contract will commence on 1 May 2024. To ensure that there is no gap in services given the current contract is to expire on 31<sup>st</sup> March 2024, Officers recommend the extension of the current contract for 1 month.

3.2.8 As the recommended extension of one month is not provided for in the contract, the contract also needs to be varied to allow for the extension.

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

- (a) the extension would not be in breach of Procurement Legislation.
- (b) the extension does 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.

3.2.10 The Corporate Director does not have delegated powers to agree a further extension of the Contract for the reasons detailed in paragraph 3.2.9 (d) above given the Corporate Director has previously extended the contract for a year. However, pursuant to paragraph 13 of Part 3 of the Constitution, the Cabinet Member for Public Health and Social Care, having consulted with the Leader, has delegated powers to:

“Agree contract extension, variation or termination where the decision is excluded from officer delegated powers because:

- (a) 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; and
- (b) the contract, agreement, deed or other transaction has a life of not more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of six months; or
- (c) the contract, agreement, deed or other transaction has a life of more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of one year; or
- (d) in the case of any variation (other than an extension):
  - (i) the total value of the variation is £1 million or more; and
  - (ii) the total value of the variation is more than £50k and is 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)

Agree of other contract extensions, variations or terminations where the Cabinet Member requests that a decision be referred to them pursuant to Part 3 paragraph 9.5.”

3.2.12 Subject to consultation with the Leader therefore, the Cabinet Member for Public Health and Adult Social Care, has delegated powers to agree the proposed extension.

#### **4.0 Stakeholder and ward member consultation and engagement**

4.1 Given the intention to extend the existing contract for a month, it has not been considered appropriate to consult with stakeholders or ward members.

#### **5.0 Financial Considerations**

- 5.1 The value of the Contract is £5,851,197 for the year. The value of the proposed extension for 1 month is £487,600.
- 5.2 The cost of this extension of the Contract will be funded from the public health budget.

## **6.0 Legal Considerations**

- 6.1 Officers recommend the variation and extension of the Contract as set out in Recommendations 2.1 and 2.2.
- 6.2 The value of the original contract is such that it is subject to full application of the Public Contract Regulation 2015 (PCR 2015).
- 6.3 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. In view of the limited duration of the proposed extension, it is considered that the Council is able to rely on Regulation 72 of the PCR 2015 in varying and extending the contract.]
- 6.4 As set out in paragraph 3.2.10, pursuant to paragraph 13 of Part 3 of the Constitution, the Cabinet Member for Public Health and Adult Social Care, subject to consultation with the Leader, has delegated powers to agree the proposed extension and variation.

## **7.0 Equality, Diversity & Inclusion (EDI) Considerations**

- 7.1 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,
- 7.2 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.
- 7.3 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.

7.4 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.

7.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

## **8.0 Climate Change and Environmental Considerations**

8.1 The proposals in this report have been subject to screening and officers believe that there are no adverse impacts on the Council's environmental objectives and climate emergency strategy.

## **9.0 Human Resources/Property Considerations (if appropriate)**

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

## **10.0 Communication Considerations**

10.1 Given that the recommended variation and extension of the Contract is for a one month period, it is not considered that the award of the contract has any direct communication considerations.

**Report sign off:**

**Rachel Crossley**  
Corporate Director, Adult Social Care and Health