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|  | Decision of Cabinet Member for Adult Social Care, Public Health and Leisure |
| | Report from the Corporate Director, Community Health & Wellbeing |

AUTHORITY TO VARY AND EXTEND A CONTRACT FOR SUPPORTED LIVING SERVICES FOR ADULTS AT GLADSTONE PARK GARDENS WITH DIMENSIONS (UK) LIMITED.

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| Wards Affected: | All |
| Key or Non-Key Decision: | Non-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 |
| List of Appendices: | N/A |
| Background Papers: | N/A |
| Contact Officer(s): <small>(Name, Title, Contact Details)</small> | Name: Rachel Crossley Job Title: Corporate Director, Community Health and Wellbeing Email: Rachel.Crossley@brent.gov.uk |

1.0 Executive Summary

1.1 This report requests individual Cabinet Member approval to vary and extend a contract in respect of Supported Living Services for Adults at Gladstone Park Gardens with Dimensions (UK) Limited 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 Adult Social Care, Public Health and Leisure, having consulted with the Leader:

2.1 Approves the variation of the contract for Supported Living Services at Gladstone Park Gardens with Dimensions (UK) Limited to permit the extension of the contract as set out in paragraphs 3.2.

2.2 Approves the extension of the contract detailed in 2.1 above for a period of 6 months with a 1-month break clause from 1st April 2025 to 30th September 2025 in the sum of £158,305.47

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 Strategic priority 5 of the Borough Plan, A Healthier Brent, says that the council will make sure that health and social care services meet local needs.

3.1.2 In particular, the council will ensure that adults with care and support needs are able to access support services that are responsive to their needs and the council will work with residents as partners in their own care and support

3.1.3 The proposed extension to this contract will enable the council to ensure that the services for service users at Gladstone Park Gardens continue without disruption until the new procurement process is completed, whilst also complying with and achieving desired outcome 1 of strategic priority 5 of the Borough Plan.

3.2 Background

3.2.1 The Council entered into a contract for Supported Living Services for Adults with Learning Disabilities at Gladstone Park Gardens with Dimensions (UK) Limited on 28th June 2021 (the "Contract"). The Contract was entered into for a period of 2 years with provisions for a further 6 month extension. The Contract was extended for 6 months in accordance with the extension provisions. The Contract was then varied and extended for a further 6 months using officer delegated powers. The Contract was then varied via a Cabinet Member decision to allow for a further extension for a period of 12 months. Following the above extension, the Contract is due to expire on 31st March 2025.

3.2.2 Gladstone Park Gardens is part of a tender for supported living services which that was published on 23rd December 2024. The tender is for six LD sites grouped into three lots of two. The other sites included in the tender are:

- Ruby Street
- Beechcroft and Manor Drive
- Preston Road
- Woodhill Crescent

3.2.3 The tender closed on 7th February 2025. Due to the high amount of interest in this tender officers will need to allow enough time to evaluate and moderate the tender responses to identify the selected provider to award the new contract to and mobilise the contract with the new provider. Officers consider that the variation and extension of the Contract is required and reasonable in the circumstances as the new contract is unlikely to be in place by 1 April 2025 and the Council will need additional time to complete the procurement process.

- 3.2.4 Officers therefore believe that an extension of the existing Contract for a period of 6 months with a 1-month break clause will provide enough time to complete the procurement process and ensure sufficient time for the new provider to safely mobilise the new contract. The inclusion of the 1-month break clause will allow the Council to break the Contract sooner in the event that the award and mobilisation of the new contract takes place sooner than anticipated.
- 3.2.5 In view of the above, Officers consider that the Contract should be varied and extended and have entered into discussions with Dimensions (UK) Limited (the “Contractor”) to explore the possibility of varying and extending the Contract from 1st April 2025 to 30th September 2025 with a 1-month break clause.
- 3.2.6 In accordance with clause B2.6, the Contract allows for a variation that shall be effective if mutually agreed by the Parties and made by written agreement executed by duly authorised representatives of both Parties and annexed to the Contract. The Contractor has been consulted and is in agreement with the proposals set out in this report
- 3.2.7 In addition to the proposed variation, Officers also recommend an extension to the term of the Contract. Whilst the Contract contains provisions permitting extensions to the Contract under paragraph 1.4 of the Order form and Clause B1.1, the extension provision in the Contract has already been utilised however. Also, the Contract has been varied and extended using Officer delegated powers by an additional 6 months under paragraph 9.5 of Part 3 of the Constitution. This was followed by a Cabinet Member variation and extension for a period of 12 months as detailed in paragraph 3.2.1. The Corporate Director is therefore unable to extend for the proposed period of 6 months (with a 1-month break clause) as their delegated powers have been exceeded. For the reasons detailed in paragraphs 3.2.2 to 3.2.5, Officers seek authority to further extend the Contract.
- 3.2.8 Pursuant to paragraph 13 of Part 3 of the Constitution and subject to consultation with the Leader, the Cabinet Member for Adult Social Care, Public Health and Leisure, has delegated powers to agree the proposed variation and extension of the Contract.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 The Contractor has been consulted and is in agreement with the proposed extension of the service pending the completion of the procurement process.
- 4.2 The residents at Gladstone Park Gardens and their families have been consulted in relation to the procurement and shaping the future service.

5.0 Financial Considerations

- 5.1 The Council entered into the Contract for Supported Living Services for Adults with Dimensions (UK) Limited in June 2021.

- 5.2 Based on the most recent accounts available Dimensions (UK) Limited passed Brent Council's financial assessment.
- 5.3 The value of the proposed variation and extension is £158,305.47. This includes the London Living Wage uplift and a discretionary uplift awarded by the council.
- 5.4 The cost of this variation and extension of the Contract will be funded from Commissioning and Contract which sits within the Adult Social Care budget B02801.

6.0 Legal Considerations

- 6.1 Officers recommend the variation and extension of the Contract as set out in paragraphs 2.1 and 2.2.
- 6.2 The value of the Contract is such that it is subject to 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. Regulation 72 (1)(b) of the PCR 2015 states that contract and framework agreements may be modified without a new procurement procedure for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:
 - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and
 - (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority;

provided that any increase in price does not exceed 50% of the value of the original contract;

- 6.4 Regulation 72 (2) sets out (2) Where several successive modifications are made:—
 - (a) the limitations imposed by the provision at the end of paragraph 72 (1)(b) shall apply to the value of each modification; and
 - (b) such successive modifications shall not be aimed at circumventing this Part.
- 6.5 Given the circumstance surrounding the proposed extension as set out in paragraph 3.2, and the limited duration and value of the extension, it is considered that the Council is able to rely on Regulation 72 (1) (b) of the PCR

2015 in varying and extending the Contract as recommended. It should be noted that potentially there are also other grounds under Regulation 72 that could be relied upon to justify the variation.

- 6.6 As set out in paragraph 3.2.8, pursuant to paragraph 13 of Part 3 of the Constitution, the Cabinet Member for Adult Social Care, Public Health and Leisure, subject to consultation with the Leader, has delegated powers to agree the proposed extension and variation.

7.0 Equity, 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.

- 7.6 Officers do not consider that there are any adverse health equalities implications arising from the recommendations in the report.

8.0 Climate Change and Environmental Considerations

- 8.1 There are no specific climate change and environmental considerations regarding the variation and extension of this Contract.

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 varying and extending the Contract.

10.0 Communication Considerations

10.1 The residents at Gladstone Park Gardens and their families have been consulted in relation to the procurement and shaping the future service. Easy read documentation was used. Should the recommendations be agreed, the resident's and their families will be advised of the extension to the Contract.

Report sign off:

RACHEL CROSSLEY

Corporate Director, Community Health & Wellbeing