

	Officer Key Decision
	Report to the Corporate Director, Service Reform and Strategy
Authority to Vary & Extend the contract for Independent Living Learning Disabilities & Autism Accommodation based Support Service at 127 & 129 Harrowdene Road	
Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
List of Appendices:	N/A
Background Papers:	N/A
Contact Officer(s): (Name, Title, Contact Details)	Edwin Mensah, Head of Commissioning, Contracting and Market Management. Edwin.Mensah@brent.gov.uk

1.0 Executive Summary

- 1.1 This report requests authority to vary and extend a contract in respect of Independent Living Learning Disability accommodation-based support services at 127 and 129 Harrowdene Road 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, Service Reform and Strategy in consultation with the Lead Member for Adult Social Care, Public Health and Leisure:

- 2.1 Confirms approval of the extension of the contract for the provision of Independent Living Learning Disability accommodation-based support services at 127 and 129 Harrowdene Road with Centre 404 for a period of 12 months from 7 November 2024 to 6 November 2025.
- 2.2 Approves the variation of the contract for Independent Living Learning Disability accommodation-based support services at 127 and 129 Harrowdene Road with Centre 404 to allow for the extension detailed in Recommendation 2.3 below.

- 2.3 That you approve an extension to the current contract with Centre 404 for a period of 12 months from 7 November 2025 to 6th November 2026 in the sum of £0.860m.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

- 3.1.1 This tender which is for care and support services at two supported living sites as outlined above is strategically positioned to significantly contribute to Brent Council's Borough Plan 2023-2027 Strategic Priority 5, by achieving desired outcome 1. Tackling Health Inequalities and desired outcome 2. Localised Services for Local Needs.
- 3.1.2 By providing an inclusive and accessible environment, the services actively work towards reducing health inequalities and strengthening community ties through supporting people closer to home, engagement initiatives and robust partnerships with local organisations. Furthermore, the settings not only support employment in the local community through job creation and specialised training but also enhances the resilience of these communities by fostering supportive networks. This tender will ensure the continued alignment with and contribution to the Council's aspirations, promoting a healthier, more equitable, and unified community.

<https://www.brent.gov.uk/the-council-and-democracy/strategies-priorities-and-policies>

3.2 Background

- 3.2.1 In November 2022, the Council entered into a contract for Independent Living Learning Disability accommodation-based support services at 127/129 Harrowdene Road with Centre 404 (the "Contract"). The Contract was awarded for an initial two (2) year term, with the provisions to extend for a further two (2) yearly periods (on a 1+1 basis). The Contract commenced on 7th November 2022 and has an annual value of £640,870.
- 3.2.2 127 and 129 Harrowdene Road are two semi-detached three-story properties, with 5 beds in each accommodation, providing care and support for people with learning disability who meet the eligibility criteria for care needs.
- 3.2.3 127 and 129 Harrowdene road was acquired and refurbished by Brent housing and has the capacity of 5 bedrooms in each house. The properties have 5 bedrooms across two floors, each of a good size with its own on suite with a toilet, shower basin and a communal kitchen.
- 3.2.4 127 and 129 Harrowdene Road provides care and support for adults with learning disability and some with Autism; care and support are provided by Centre 404.

- 3.2.5 Officers utilised the first extension provision of the Contract and extended the Contract from 7 November 2023 to 6 November 2024. Officers are seeking to confirm the approval to extend the Contract from 7 November 2024 to 6 November 2025 which was previously relayed to the Corporate Director who indicated approval to utilise the final extension option in the Contract. The Contract expressly provides for a final 12-month extension option at the Council's sole discretion.
- 3.2.6 The Contract will be coming to an end on the 6th of November 2025, after which there will be no contractual arrangements for the provision of Independent Living Learning Disability accommodation-based support services. Whilst the process of tendering for a new contractor is ongoing, Officers do not envisage that this will be completed in time for a new contract to be in place by 7 November 2025. Officers are therefore seeking a further variation and extension outside the Contract extension provisions to extend the Contract for a further period of twelve (12) months to allow enough time for the new procurement process to be completed. The variation and extension will ensure continuity of care for the current residents of 127/129 Harrowdene Road.
- 3.2.7 In view of the above, Officers consider that the Contract should be varied and extended and have entered into discussions with Centre 404 (the "Contractor") to explore the possibility of varying and extending the Contract from 7 November 2025 to 6th November 2026.
- 3.2.8 In accordance with clause F3.6, 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.
- 3.2.9 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Corporate Directors are able to extend contracts and agreements without the need for Cabinet approval 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 Subject to consultation with the relevant Cabinet Member, and the Cabinet Member not requesting the decision is referred to them, it is considered that the Corporate Director, Service Reform and Strategy has delegated authority to agree the variation and extension as, in addressing the points detailed in paragraph 3.2.9 above:

- (a) the confirmation of the extension of 12 months was provided for when the Contract was let and is thus permitted in accordance with Regulation 72(1)(a) of the Public Contracts Regulations 2015. The proposed variation and extension for a further 12 months is not considered to be in breach of the Public Contracts Regulations 2015 being permitted to Regulation 72(1)(b) of the Public Contracts Regulations 2015.
- (b) The proposed extension is in accordance with the Contract provisions and will not substantially alter the terms and conditions of the Contract. The proposed variation and extension for a further 12 months does not substantially alter the terms and conditions of the Contract, with the Contract being varied and extended on the same terms and conditions as the original Contract.
- (c) there is sufficient existing budgetary provision as the cost will be met from Adult Social Care budgets.
- (d) The confirmation of the extension of 12 months is in accordance with the extension provisions of the Contract. The proposed variation and extension for a further 12 months is not in accordance with the extension provisions of the Contract. The Contract has a life of more than 12 months and the proposed variation and extension does not exceed 12 months and therefore falls within d(ii).

- (e) The proposed variation is valued at £0.860m and therefore falls within e(i) and (ii).
- (f) The relevant Cabinet Member shall be consulted as the decision falls within d(ii) and e (i) and (ii) and may request that the decision instead be referred to them.

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 a full procurement process.

5.0 Financial Considerations

- 5.1 This contract is made up of two elements – there is an element for the core needs of the client and a variable element for addition needs above the core offer. As part of this contract, the Council is committed to paying for the core hours even if the space is void. This does not apply to the additional hours. Voids will be closely monitored to ensure that the best value for money is achieved from this contract.
- 5.2 Based on current rates, the value of the core element for the extension proposed is £0.599m, covering the period 7th November 2025 to 6th of November 2026. The additional hours required can vary. Based on the current needs of the clients in care, the estimated cost of the additional hours for the period of this extension is £0.260m. The estimated total cost of this extension is £0.860m. The cost of the extension will be funded through existing budgets within Adult Social Care.
- 5.3 This contract spans two financial years. Uplifts that may be applied to this contract have been modelled as part of the medium-term financial planning process.

6.0 Legal Considerations

- 6.1 Officers recommend the variation and extension of the Contract as set out in paragraphs 2.1, 2.2 and 2.3.
- 6.2 The value of the original Contract is such that it is subject to the full application of the Public Contracts Regulations 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.
- 6.4. With regard to the confirmation of the 12-month extension from 7 November 2024 to 6 November 2025, as detailed in paragraph 2.1, the Contract contains express provision allowing for the extension as recommended and as such the extension is permitted in accordance with Regulation 72(1)(a) of the PCR 2015.

6.5 With regard to the proposed variation and extension for a further 12 months, as detailed in paragraphs 2.2 and 2.3, Regulation 72 (1)(b) of the PCR 2015 states that a contract 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, or
- (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.

It is considered that the Council can rely on Regulation 72 (1) (b) for the proposed variation and extension of the Contract, as there is a need for additional services that have become necessary which were not included in the initial procurement and a change of contractor cannot be made for technical reasons such as requirements of interchangeability or interoperability and would cause significant inconvenience and duplication of costs. Additionally, the increase in price does not exceed 50% of the value of the original Contract.

6.6 The Corporate Director, Service Reform and Strategy 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 3.2.9 above. As set out in paragraph 3.2.10 above, and subject to the relevant cabinet member not requesting the decision to vary and extend be referred to them, none of these conditions preclude the Corporate Director agreeing the recommended extension and variation.

6.7 In accordance with Contract Standing Order 112, the Corporate Director, Service Reform and Strategy 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 of this report for further information.

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.

8.0 Climate Change and Environmental Considerations

8.1 Officers do not envisage any climate change or environmental implications as a result of extending the Contract.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 These services are currently provided by external contractors and there are no implications for Council staff arising from extending the Contract.

10.0 Communication Considerations

None

Report sign off:

Rachel Crossley

Corporate Director Service Reform & Strategy