



Cabinet
15 October 2018

**Report from the Strategic Director
of Children and Young People**

**Approval to Tender a Contract for Speech and Language
Therapy**

Wards Affected:	All
Key or Non-Key Decision:	Key
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:	One: • Equality Impact Analysis
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Brian Grady Operational Director, Safeguarding, Partnerships and Strategy Email: Brian.grady@brent.gov.uk Tel: 020 8937 4713

1.0 Purpose of the Report

- 1.1 This report sets out the commissioning and delivery models considered for the provision of speech and language therapy to support children with Special Educational Needs and Disabilities (SEND) in mainstream schools, children's centres and linked early years settings.
- 1.2 This report seeks Cabinet approval to invite tenders for the provision of Speech and Language Therapy to support children and young people with Special Educational Needs and Disabilities (SEND) in mainstream schools, children's centres and linked early years settings, as required by Contract Standing Orders 88 and 89.

2.0 Recommendations

That Cabinet:

- 2.1 Approve the preferred commissioning approach and delivery model for a contract that delivers Speech and Language Therapy to support children with SEND in mainstream schools, children's centres and linked early years settings as set out in sections 4.0 and 5.0 of the report.

- 2.2 Approve the invitation of tenders for the contract referred to in 2.1 above on the basis of the pre-tender considerations set out in paragraph 5.1 of the report.
- 2.3 Approve that officers evaluate the tenders referred to in 2.2 above on the basis of the evaluation criteria set out in section (vi) of the table of paragraph 5.1.
- 2.4 Delegate authority to award the contract for Speech and Language Therapy for children with SEND in mainstream schools, children's centres and linked early years settings to the Strategic Director, Children and Young People, in consultation with the Lead Member for Children's Safeguarding, Early Help and Social Care for the reasons detailed in paragraph 5.2.

3.0 Detail

- 3.1 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).
- 3.2 It is estimated that between 1% and 2% of the UK's population at any one time has a severe speech, language and communication disability, requiring specific assistance in order to have their needs met, including enabling children to access education. Nationally, speech, language and communication needs (SLCN) are the most common type of need in primary-aged children with EHCPs and for 26.5% of this group it is their primary need.
- 3.3 Demand for the speech and language therapy (SLT) services provided by Brent Council is high. The numbers of children and young people with an EHCP in Brent is continuing to rise. The total number of children and young people with an EHCP increased from 1,804 to 2,076 (15%) between January 2016 and January 2018 and the number of children identified as having SLCN in their EHCPs increased from 296 to 316 (7%) over the same time period.
- 3.4 In 2017/18 (Quarter 4) 308 pupils received SLT, with an average of 20 new cases per quarter, as part of the current mainstream education contract (see below). Through children's centres and linked early years settings, in 2017/18 2,879 under 5s received universal SLT support, 1,221 under 5s received targeted SLT support and 237 under 5s were identified as needing specialist SLT support.
- 3.5 The budget for Speech and Language Therapies (SLT) is a combination of the DSG (approx. 2/3rds) and the General Fund (1/3rd). SLT services are currently commissioned by Brent Council with the following providers:

Contract	Incumbent provider	Contract end date
Speech and Language Therapy in Children's Centres	Central and North West London NHS Foundation Trust	31 st March 2019
Speech and Language Therapy in Mainstream Education	London Northwest Healthcare Trust	31 st March 2019
School based Speech and Language Therapy support for pupils attending Richard Cloudsley School in Islington	Whittington Health Trust	Rolling contract

- 3.6 The current Speech and Language Therapy in Children's Centres contract provides early intervention support for children aged 0 to 5 and their parents attending Brent children's centres and linked early years settings. The service works with parents, children practitioners and volunteers to encourage age appropriate communication development, prevent speech delay through a universal and targeted offer and identifies children needing referral to specialist services, working closely with statutory SLT services. This contract ends on 31st March 2019.
- 3.7 The current Speech and Language Therapy in Mainstream Education contract delivers support to pupils attending Brent mainstream schools and pupils in some out of borough mainstream schools in Harrow, Ealing, Westminster and Barnet and a small number in further education colleges. The service provides assessment and therapy interventions, as well as guidance for staff in schools on how to implement programmes that assist speech, language and communication development. The current contract ends on 31st March 2019. A further contract with the Whittington Health Trust provides SLT support for pupils attending Richard Cloudsley School, a special school located in Islington.
- 3.8 The Local Authority also purchases additional therapy provision on a case by case basis to support children with specific and complex SLCN needs. This can include SLT, occupational therapy and physiotherapy. For some of these children spot purchasing is the most cost effective way to commission support because of the complexity of the individual package that they need to meet their needs.

4.0 Speech and Language Therapy Service Model

- 4.1 The proposed commissioning model brings together the services for early years and mainstream schools into a combined contract. Officers are also exploring the option of incorporating some services which are currently spot purchased within the contract. Bringing together the Council's commissioned SLT services in children's centres, early years settings and mainstream schools into one contract will deliver a fully integrated model covering the 0-25 age range. The model will deliver an inclusive service to young people attending a range of settings, including mainstream schools, children's centres, early years settings, pupil referral units, alternative education settings and where applicable further educational facilities including colleges. This will include high quality support for children and young people who have a need identified and specified in their EHCP.
- 4.2 The integrated SLT model will provide benefits around information sharing and reduced management costs, as well as ensuring clear co-ordination of Speech and Language Therapy services across age groups and settings, supporting multi-agency professional work.
- 4.3 Between 15 May 2017 and 19 May 2017, Ofsted and the Care Quality Commission (CQC) conducted a joint inspection of Brent to judge the effectiveness of the area in implementing the SEND reforms. A priority in the post-inspection action plan was to jointly commission integrated paediatric

therapy services to ensure that therapy services are accessible to all children and young people, including the most vulnerable groups.

4.4 Officers are working closely with Brent Clinical Commissioning Group (CCG) to ensure alignment of therapeutic services commissioned by the Council and the CCG. The newly commissioned service will include an integrated operating protocol between the Council's provider and Brent CCG's provider to ensure:

- seamless services and seamless transition – establishing consistent links between therapeutic services to support smooth transition with regard to age of child and level of need.
- effective access – service delivery in a variety of settings, including schools and early years settings
- a focus on prevention and early intervention – as part of a continuum of service delivery offering training, consultation and advice to staff in universal service settings to promote early identification, intervention and prevention.
- consistently responsive services with agreed response times – ensuring that an assessment of need takes place in a timely manner and that parents and referrers are kept informed of developments
- efficiency in delivery – reducing duplication and costs through streamlining the operational structure.

5.0 Procurement

5.1 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations including the procurement approach and procurement timetable have been set out below for Cabinet approval.

Ref.	Requirement	Response	
(i)	The nature of the services	Delivery of Speech and Language Therapy in mainstream schools and children's centres and early years settings.	
(ii)	The estimated value.	Total estimated annual contract value of £3.4m over 5 years, for a 2 year contract with the option to extend by 3 years. The contract value may be affected if some services currently spot purchased are included within the contract.	
(iii)	The contract term.	Two Years (2) with an option to extend up to a maximum of three (3) years	
(iv)	The tender procedure to be adopted.	Open procedure	
(v)	The procurement timetable.	Indicative dates are:	
		Adverts placed including issue of OJEU notice on London Tenders Portal	24 th October 2018
		Deadline for tender submissions	23 rd November 2018
		Panel evaluation	26 th November to 3 rd December 2018

Ref.	Requirement	Response	
		Contract decision (Moderation)	11 th to 14 th December 2018
		Report recommending contract award circulated internally for comment	17 th to 24 th December 2018
		Report considered by Children and Young People Department Management Team	7 th January 2019
		Strategic Director's decision to award	8 th January 2019
		Simultaneous call in period of 5 days and minimum 10 calendar day standstill period – notification of intention to award issued to all tenderers and additional debriefing of unsuccessful tenderers	10 th to 20 th January 2019
		Contract mobilisation	22 nd January 2019 to 31 st March 2019
		Contract start date	1 st April 2019
(vi)	The evaluation criteria and process.	<p>An open tendering procedure is being used, but organisations will be required to complete a selection questionnaire which officers will review to ensure organisations meet the Council's financial standing requirements, technical capacity and technical expertise.</p> <p>The most economically advantageous tender calculation will be based on: 45% of the points being awarded for Quality/Technical assessment, 45% of the points being awarded for Commercial assessment and 10% on Social Value.</p> <p>At tender evaluation stage, the panel will evaluate the tenders against the following Quality/Technical criteria:</p> <ul style="list-style-type: none"> • The Tenderer's proposal to meet the requirements and outcomes as stated in the service specification • Tenderer's proposed plans for ensuring effective quality management of the Services and maintenance of the Contract Standard, including self-monitoring and evaluation • Tenderer's proposed approach to contract mobilisation including TUPE 	

Ref.	Requirement	Response
		<ul style="list-style-type: none"> • The Tenderer's proposal for Stakeholder Engagement / Partnership working. • The Tenderer's proposal on how their safeguarding policies will be applied to this contract. • The Tenderer's proposed approach to Social Value delivered through this contract (weighted at 10% of the total evaluation criteria)
(vii)	Any business risks associated with entering the contract.	<p>The Council will be committing to an initial two year contract. This may disadvantage the Council as follows:</p> <ul style="list-style-type: none"> • The awarded provider(s) performance may not meet expectations and the Council will be in contract for the two year duration. • The Council requirement may change. <p>These risks will be mitigated by having a robust contract management procedure in place.</p> <p>Financial Services and Legal Services have been consulted concerning this contract.</p>
(viii)	The Council's Best Value duties.	The adoption of an open tendering process will enable the council to achieve best value.
(ix)	Consideration of Public Services (Social Value) Act 2012	See Section 11 below.
(x)	Any staffing implications, including TUPE and pensions.	See section 10 below.
(xi)	The relevant financial, legal and other considerations.	See sections 6 and 9 below.

5.2 This contract is likely to have TUPE considerations and recruitment actions as part of the mobilisation phase and therefore at least two months between contract award and commencement are needed to manage these issues. Delegated authority to award the contract for Speech and Language Therapy to support Children with SEND in mainstream schools and children's centres to the Strategic Director, Children and Young People in consultation with the Lead Member for Children's Safeguarding, Early Help and Social Care, would allow the new provider and the Council a two month period for mobilisation, with the new contract commencing on 1st April 2019.

5.3 Cabinet is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

6.0 Financial Implications

- 6.1 The budget for Speech and Language Therapies (SLT) is funded from a combination of the DSG (approx. 2/3rds) and the General Fund (1/3rd).
- 6.2 The current SLT in Children's Centres contract with Central and North West London NHS Foundation Trust is budgeted within the Early Help service and is funded by the General Fund. This service is currently forecasting to spend within budget.
- 6.3 The current SLT in Mainstream Education contract with North West London NHS Foundation Trust and the school based SLT support with the Whittington Health Trust, are budgeted within the Inclusion service and is funded by the DSG.
- 6.4 The tender aims to accommodate a forecast increase in demand for SLT within the existing budgets.

7.0 Legal Implications

- 7.1 Under the Children and Families Act 2014 the Council has a duty to identify children and young people with special educational needs and disabilities (SEND), to assess their need and make provision for them as stated in their Education, Health and Care plans (EHCPs). The Council is also required to review provisions for children and young people with SEND, to cooperate with those involved in their care to plan and commission provision for those children and young people and publish clear information on services they expect to be available.
- 7.2 Contracts for provision of education are classed as Schedule 3 service under the Public Contract Regulations 2015 ("EU Regulations"). Schedule 3 service contracts over the EU threshold are only subject to partial application of the EU Regulations. For such contracts, a contract notice or PIN used as a call for competition must be published in the Official Journal in the usual way and a procurement process undertaken before a contract is awarded. Regulation 76 permits contracting authorities to apply any one of the set procedures for tendering (with or without variations) and undertake the procurement process in accordance with the principles of the Treaty of the Functioning of the European Union of fairness, equal treatment and transparency. The current EU threshold for Schedule 3 service contract is of £615,278 and paragraph 5.1 of this report confirms the proposed contract is above this threshold and also details the procurement process that the Council will undertake before awarding the contract.
- 7.3 Based on the value of the contract as set out in paragraph 5.1, it is deemed a High Value Contract under Contract Standing Orders (CSO) and the CSO provides that Cabinet approval to invite tenders (Standing Order 88) and of the pre-tender considerations set out in paragraph 5.1 above (Standing Order 89) must be obtained prior to inviting tenders for High Value contracts.
- 7.4 Officers are also seeking approval to delegate authority to the Strategic Director, Children and Young People in consultation with the Lead Member for

Children's Safeguarding, Early Help and Social Care to award the contract once the procurement process has been completed. Cabinet is empowered under the Constitution to grant such delegations and officers have set out the reasons for requesting such delegations in paragraph 5.2 of this report.

- 7.5 As this procurement is subject to the application of the EU Regulations, the Council will observe a minimum 10 calendar days standstill period under the EU Regulations before the contract can be awarded. The requirements include notifying all tenderers in writing of the Council's decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the contract may commence.

8.0 Equality Implications

- 8.1 Under Section 149 of the Equality Act 2010, the Council has a duty when exercising its public functions to have 'due regard' to the need to eliminate discrimination harassment and victimisation and other conduct prohibited under the Act; advance equality of opportunity, and foster good relations between those who share a "protected characteristic" and those who do not. This duty is known as the public sector equality duty (PSED). The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. All providers that are commissioned to deliver public services on behalf of or in partnership with Brent Council are required to comply with the PSED and the Council's Equality and Diversity policies.
- 8.2 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.
- 8.3 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. Cabinet is referred to the contents of this report for information, in particular paragraph 8.4 relating to children and young people with SEND.
- 8.4 Speech and Language Therapy support services seek to improve the communication skills of children and young people and to identify those with additional needs who would benefit from referral to specialist services. Services are designed to reduce any adverse impact on children and young people by identifying and working with children (and their families) who would benefit from speech and language support. The service is designed for early identification to help develop age appropriate communication skills and reduce communication related disabilities as children grow older, equipping them with the relevant tools and aids to help them to realise their potential. An Equality Impact Assessment was carried out by the service. No adverse impacts were

identified for any groups on the basis of protected characteristics (Appendix 1).

- 8.5 The Ofsted Inspection report recommended action to more effectively meet the needs of vulnerable groups with complex SEND aged 0-25 and those in education settings, including Looked After Children, children and young people in the Pupil Referral Unit or known to the Youth Offending Service, and those home educated. The specification for the therapy service has been revised to address these concerns.

9.0 Consultation with Ward Members and Stakeholders

- 9.1 As this report affects all wards, consultation with specific ward members has not been conducted.
- 9.2 Parent/Carers have been involved in the revision of therapy service specifications through Parent/Carer representation on a Children's Trust Joint Commissioning therapy workstream alongside special school representation, as well as through the Brent Parent/Carer Forum, Brent Health Partners Forum and Healthwatch. A programme of Special Educational Needs and Disabilities engagement workshops has taken place with parents and carers to capture their views in the development of services. These have shaped the development of enhanced service specifications. The involvement of parents/carers in contract monitoring will be put in place through the Children's Trust.
- 9.4 The Brent Local Offer is currently under review with the Parent Carer Forum on the suitability of presentation, content and format to ensure that families can access the right information in the right way to support access to the appropriate services they need in Brent. This will include information about the therapy services commissioned by the LA and the CCG.
- 9.5 Engagement will continue with the Parent/Carer Forum on commissioning priorities for 2018/19. Dates for engagement sessions with parents and carers are advertised publicly on Brent Parent Carers Forum. These activities ensure a co-production approach to services with parents and carers to ensure that commissioned services meet the needs of children and families.

10.0 Human Resources/Property Implications (if appropriate)

- 10.1 The services are currently provided by external providers and there are no direct staffing implications for the Council arising from the tender process. However, as part of the procurement process, employee liability information will be sought from current contractors and provided to the tenderers. The TUPE process and any issues that may arise from it will be managed during the mobilisation phase, which will be at least two months between contract award and commencement.

11.0 Public Services (Social Value) Act 2012

- 11.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to

securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

- 11.2 The services under the proposed contract have as their primary aim the improvement of the social wellbeing of a vulnerable group in Brent. In procuring the services and in accordance with the council's Social Value Policy, 10% of the total evaluation criteria will be reserved for social value considerations.

Report sign off:

GAIL TOLLEY

Strategic Director of Children and Young People