

Meeting	Cabinet Resources Committee
Date	24 September 2013
Subject	Provision of therapies to Children with Special Educational Needs and placements to children in care
Report of	Cabinet Member for Education, Children and Families
Summary	<p>This report outlines contract and procurement activity in relation to therapies for children with Special Educational Needs (SEN) and seeks authority to extend the current arrangements for speech and language therapy services on an interim basis until new, jointly commissioned arrangements with Barnet Clinical Commissioning Group take effect.</p> <p>This report further seeks authorisation to enter into contracts with providers of social care placements and seeks authorisation for the procurement of a Troubled Families data collation system.</p>
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Status (public or exempt)	Public (with separate exempt report)
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	Appendix 1
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1. RECOMMENDATIONS

That Cabinet Resources Committee:

- 1.1 Authorise the extension of the contract with Central London Community Healthcare for speech and language therapy services in schools and children's centres, as outlined in paragraph 6.2 of this report, and authorise a further extension if there are further unforeseen delays**
- 1.2 Authorise the extension of use of the Special Education Needs (SEN) therapy providers outlined in paragraph 6.3 of this report until up to 31 March 2015**
- 1.3 Authorise that the Council enter into contract with providers of social care placements from 1 September 2013 to 31 March 2014 as outlined in paragraph 6.4 of this report and also authorise a 6 month extension option to 30 September 2014**
- 1.4 Authorise spend of up to £150,000 on a Troubled Families data collation system, as outlined in paragraph 6.5 of this report**
- 1.5 Authorise waivers of the Contract Procedure Rules, as required and as outlined in section 8 of this report**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Delegated Powers Report, 9 August 2013, finalised the full scope and finances of the Section 75 Partnership Agreement between London Borough of Barnet and the Barnet Clinical Commissioning Group (CCG).
- 2.2 Cabinet Resources Committee, 24 June 2013, Agenda item 14, accepted and provided authority to call off the jointly commissioned West London Alliance framework for IFA placements, led by London Borough of Hillingdon, for a period of 4 years.
- 2.3 Cabinet Resources Committee, 18 April 2013, Agenda item 11, authorised the development of a Section 75 agreement between the Council and Barnet CCG to jointly commission speech and language therapy services and authorised the extension of speech and language therapy contracts with CLCH until 31 August 2013.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The ongoing and planned commissioning and procurement activity related to speech and language and other therapies for children with a statement of Special Educational Need contribute to the priorities of the Council's Corporate Plan 2013/14-15/16 by creating 'better life chances for children and young people across the borough' and contribute to the outcome sustain 'a strong partnership with the local NHS, so that families and individuals can maintain and improve their physical and mental health'. The extension of the use of therapy services, identified in this report, will enable the Children's Service to continue supporting the priorities of the Children and Young People Plan 2013-16, including the priorities to enable those with Special Educational Needs and complex needs to achieve their potential.
- 3.2 Providing services to vulnerable children, young people and their families is a key priority across the council and its partners. The Corporate Plan 2013-16 includes the strategic objective to support families and individuals that need it, promoting

Corporate Plan outcome to create better life chances for children and young people across the borough. Provision of social care placements that meet the needs of children in care also supports the Children and Young People Plan 2013-16 priority to protect children at risk of harm and support them to achieve their potential. Ongoing work within West London Alliance (WLA) provides an opportunity to work collaboratively across the WLA boroughs to achieve a reduction in the costs of external placements and to continue to raise the quality of provision.

4. RISK MANAGEMENT ISSUES

- 4.1 There has been a delay to the planned start date for the new speech and language therapy contract, which has been commissioned by Barnet Clinical Commissioning Group (CCG) as the lead commissioner, on behalf of both the Council and Barnet CCG. The Council has a statutory responsibility to provide for pupils who have therapy, such as speech and language therapy, specified on their Statement of Special Educational Need (SEN). If the current contracts for the provision of speech and language therapy services are not extended for an interim period, there will be a gap in service. There is therefore a risk that if the current arrangements are not extended, the Council will not meet its statutory duties.
- 4.2 The Council also commissions services from various smaller therapy providers to meet the legal requirements outlined in tribunal and SEN statement processes. If these providers cannot be authorised for use on an ongoing basis, there is a risk that the Council will not meet the legal duty set out in the SEN statements of some children.
- 4.3 The Council has a duty to ensure sufficient accommodation to meet the needs of children in its care. If the Council did not enter into contracts with the social care placement providers identified in this report, it would risk not being able to fully meet the needs of all children in care. Social care placements costs are a high area of expenditure. The Council is working with West London Alliance partners to negotiate lower costs, while maintaining the quality of social care placements.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Under current Equalities legislation the Council and all other organisations exercising public functions on its behalf are required, when exercising such functions, to have due regard to the need to: i) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited under the Equality Act 2010; ii) advance equality of opportunity between those with a protected characteristic and those without; iii) promote good relations between those with a protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.
- 5.2 Speech and language therapy, and other therapy services, are provided to children and young people with a statement of Special Education Need. The services provided are tailored to meet the specific needs of each child, including in relation to disability, their faith, culture and other requirements.
- 5.3 Bresslaff Family Assessment Centre, Jamma Umojo, St Christopher's Fellowship and Capstone Foster Care South West Ltd all deliver social care services to children and young people of all faiths and cultures and are committed to ensuring that there is equality of service provision to all to enable this cohort of young people to have a supported and positive transition into adulthood. The ongoing monitoring

arrangements with these providers ensure that the service provision meets the diverse needs of Barnet's children and young people.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

Procurement, Performance, Value for Money and Sustainability

6.1 London Borough of Barnet and Barnet CCG are developing a more integrated approach to the commissioning of services for children and young people and have entered into a Section 75 Partnership Agreement to support this aim. Work will continue with health colleagues to identify and remove any further areas of duplication in relation to provision of these other types of therapy in a way that accurately reflects the respective responsibilities of both parties, ensures financial contributions are appropriate and proportionate in relation to these statutory accountabilities, and enables joint planning.

The procurement of a Troubled Families data collection system will be undertaken in accordance with the Council Contract Procedure Rules and the opportunities will be published on the Councils E-tendering system to ensure a competitive and transparent process is achieved.

Finance

Speech and language therapy contract, provision in schools and children's centres

6.2 Cabinet Resources Committee gave authority at 18 April 2013 CRC, as outlined in paragraph 2.3 of this report, for speech and language therapy contracts with Central London Community Healthcare to be extended until the 31 August 2013, as the new contract was due to be awarded by the Clinical Commissioning Group to commence on 1 September 2013. There has been a delay to the start of this new contract and in order to ensure that there is continuity of service, authority is being sought to further extend the contracts with the current provider as outlined in the table below. The new contract is now due to commence on 7 October 2013. Additional authority is also sought to increase the value of the contract extension, already authorised, for the period 1 April 2013 – 31 August 2013.

Provider Name	Contract description	Existing contract value	Contract extension sought	Value of extension
Central London Community Healthcare	Speech and language therapy provision in schools, including excellence in clusters provision Contract number 5000002693	£632,189	Increase the value of the contract extension, already authorised for the period 1 April 2013 – 31 August 2013 (extension period already approved)	Increase in value of up to £40,100 (including up to £36,730 for speech and language therapy to schools and up to £3,370 for excellence in clusters provision)
			New contract extension 1 September 2013 – 6 October 2013	Up to £47,456 (including up to £41,814 for speech and language therapy to schools and up to £5,642 for excellence in clusters provision)
			Contract extension and variation to include only excellence in clusters	Up to £27,265 for excellence in clusters provision only

			provision 7 October 2013 – 31 March 2014	
Central London Community Healthcare	Early intervention and prevention speech and language therapy provision in children's centres Contract number 5000005477	£162,750	New extension 1 September 2013 – 6 October 2013	£9,300

Other SEN therapy providers

6.3 As outlined in paragraphs 9.1 to 9.4 below, the Council is working collaboratively with the CCG to remove duplication in the provision of SEN therapy services. The joint re-commissioning of speech and language therapy services has evidenced financial benefit to both partners while offering a better service to children and families. The Council is working to transition children currently using the providers of SEN therapy identified in the table below to use the new speech and language therapy contract. The use of the providers of SEN therapies identified below meet the specific requirements of children and young people as outlined at tribunal or in a SEN statement. As each statement of Special Educational Needs is reviewed annually, sufficient time is needed to undertake a transition to the new provision for some children. Furthermore, work is underway to set up an approved supplier list by April 2014 to support any ongoing need to use these smaller providers.

The accompanying exempt report contains the details of the named individuals referred to below.

Provider Name	Authorisation to spend from 1 April 2013 to 30 September 2013	Authorisation to spend from 1 October 2013 to 31 March 2015	Previous spend 1 April 2012 to 31 March 2013
Named individual	N/A	Up to £9,750	£6,240
ASEND		Up to £3,000	None
Barnet, Enfield and Haringey		Up to £1,500	£750
Binoh Norwood Ravenswood		Up to £145,500	£95,000
Named individual		Up to £6,750	£4,585
CLCH	Up to £36,000	Up to £108,000	Up to £72,000 to be authorised for payment
Ealing Hospital NHS Trust		Up to £9,000	£6,000
Judith Leigh Ltd		Up to £11,250	£7,300
Julia Terteryan Ltd		Up to £1,500	£1,000
Named individual		Up to £19,500	£13,455
London Children's Practice		Up to £21,000	£13,765
Named individual		Up to £5,250	£3,260
Named individual		Up to £6,000	£4,120
Named individual		Up to £4,500	£2,740
Named individual		Up to £3,000	None

Named individual	N/A	Up to £2,250	£1,150
Named individual		Up to £12,000	£7,765
Named individual		Up to £30,000	£21,115
Named individual		Up to £7,500	£5,225
Talk With Us		Up to £55,000	£37,140
Named individual		Up to £4,500	£2,855
Named individual		Up to £1,500	£900
The Hope Centre		Up to £25,500	£17,160
Whittington Hospital NHS Trust		Up to £40,500	£22,225
Totals		Up to £36,000	Up to £534,250

Social care placements

6.4 The table below details of four providers of social care placements for which authority is sought to enter into contracts. Paragraphs 9.5 to 9.10 of this report outline the rationale for entering into contracts with each provider. These contracts are call off agreements and do not commit the Council to spend with these providers. The projected value of spend with each provider is based on the number of young people who are anticipated to require this type of provision. All spend will be contained within existing Family Services Delivery Unit budgets.

Provider name	Length of contract	Contract Value	Value of additional 6 month extension option
Bresslaff Family Assessment Centre (court ordered)	7 months 1 September 2013 – 31 March 2014	up to £22,000	up to £19,000
Jamma Umojo (court ordered)	7 months 1 September 2013 – 31 March 2014	up to £104,000	up to £90,000
St Christopher's Fellowship (to meet individual needs)	7 months 1 September 2013 – 31 March 2014	up to £320,000	up to £275,000
Capstone Foster Care South West Ltd (to meet individual needs)	7 months 1 September 2013 – 31 March 2014	up to £220,000	up to £189,000

This report also seeks authority to extend the contract terms for the above four providers by a further 6 months to 30 September 2014, subject to satisfactory performance of the services by the provider during the initial term and at the Council's discretion, if an extension is required. The rationale for the short length of these contracts is to ensure that there is alignment with the ongoing work being undertaken through West London Alliance and Barnet's own work in relation to social care placements.

Troubled Families data collection system

6.5 Authority is sought to procure a data system and the associated training, hosting and licenses to support Barnet's Troubled Families work and to support collation and submission of data to the Department of Communities and Local Government for up to £150,000 over 3 years. Further scoping and development of the business case will take place in conjunction with Capita as required. Costs will be contained within existing Family Service Delivery Unit budgets.

Staffing and IT

6.6 There are no Staffing, IT or Property implications for the Council in relation to any contracts referenced in this report.

7. LEGAL ISSUES

7.1 Social Care services are Part B services under The Public Contracts Regulations 2006 (the "Regulations") with no cross border interest and so do not be procured in accordance with the strict requirements of the Regulations.

7.2 Under the Education Act 1996 the Council has a duty to identify, assess and make provision to meet the special educational needs of children within its area.

7.3 Under the Children Act 1989 and the Children and Young Persons Act 2008 the Council must secure that sufficient accommodation is made available for children it is looking after.

7.4 Under section 508A of the Education Act 1996 the Council must assess the school travel needs of all children and persons of sixth form age in its area and assess and promote the use of sustainable modes of travel. The Council must make such school travel arrangements as it considers necessary for 'eligible children' within its area to facilitate their attendance at the relevant educational establishment.

7.5 The Council also has statutory duties under legislation to provide social care placements for children in its care.

7.6 These contracts will enable the Council to meet these statutory duties.

8. CONSTITUTIONAL POWERS

8.1 Section 14 of the Council Contract Procedure Rules outline that contracts may only be extended or varied if all of the following conditions have been met:

- the initial contract was based on a Contract Procedure Rules compliant competitive tender or quotation process
- the value of the extension or variation added to the value of the original contract does not exceed the original authorisation threshold as defined in Appendix 1, table A of the Contract Procedure Rules
- the extension or variation has an approved budget allocation
- the extension or variation is in accordance with the terms and conditions of the existing contract
- if the initial contract was subject to EU tender procedure, that the extension option was declared within the OJEU notice and the original acceptance report
- the contract has not been extended before

8.2 The Council Contract Procedure Rules further outline that in the event that any of the above conditions cannot be met, then either a waiver of the Contract Procedure Rules must be sought, in line with Section 15 of the rules, or a new procurement must commence.

8.3 Section 15 of the Council Contract Procedure Rules state that in the event that the application of these rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors and Lead Commissioners may apply for a waiver. All applications for a waiver of the Contract Procedure Rules must be submitted to Cabinet Resources Committee specifically identifying the reason for which a waiver is sought.

- 8.4 In relation to the extension of the speech and language therapy contracts with Central London Community Healthcare, providing services to schools and children's centres, all of the extension criteria are met apart from there having been a previous extension of these contracts. The justification for the further extensions is contained in paragraphs 9.1 to 9.2 below.
- 8.5 Due to the small value of spend (as defined by the Contract Procedure Rules) on each of the various smaller providers of SEN therapies, as outlined in paragraph 6.3 of this report, there have not been formal contracts in place with the majority of these providers. As such, authority is sought to continue commissioning services for individual children from these providers until 31 March 2015 at the latest, to enable a transition period for these other therapy services to potentially be delivered differently. In relation to those providers with whom a formal contract is in place, the justification for the waiver of Contract Procedure Rules to further extend these contracts is outlined in paragraphs 9.3 to 9.4 below.
- 8.6 Section 11 of the Council Contract Procedure Rules outline that acceptance of contracts in all cases is subject to budgetary provision; a compliant procurement process; and confirmation of acceptable financial status of the service provider.

This report seeks authority to enter into contracts with providers of social care placements. These contracts are on a 'call off' basis and will be contained within existing Family Services Delivery Unit budgets. Entering into contract with social care placements providers to meet individual children's needs constitutes non-procurement activity. Appropriate due diligence checks will be undertaken with each provider before entering into contract to ensure appropriate financial status of the provider organisations.

- 8.7 Section 7.1 of the Council's Contract Procedure Rules outline that any procurement included in the Delivery Unit's budget and Annual Procurement Forward Plan, as approved by Cabinet Resources Committee, is deemed as authorised. However, as stated in section 7.2 of the Contract Procedure Rules, any procurement which has not been authorised as set out in 7.1 must receive additional authorisation. Cabinet Resources Committee can authorise procurements of any value, including those that are valued at above £500,000.

In relation to this report, authority is sought for a procurement process up to the value of up to £150,000 for a Troubled Families system.

9. BACKGROUND INFORMATION

Speech and language therapy services

- 9.1 Barnet Children's Service and Barnet CCG are developing a more integrated approach to the commissioning of services for children and young people and have entered into a Section 75 Partnership Agreement to support this. The Section 75 Agreement will enable more effective use and alignment of resources across both organisations, at a time of reduced public sector budgets and increasing demand on Children's Services. In particular, this integrated arrangement will enable effective and efficient commissioning of Children's health services to meet the increasing demand in health provision by children with complex health needs, long term conditions and disabilities.
- 9.2 The first service to be jointly commissioned is Speech and Language Therapy. Barnet CCG is the lead commissioner for this service and has commissioned the new service on behalf of both the CCG and the Council. The pooled budgets have been agreed and a contract was due to be awarded by Barnet CCG to start on 1 September 2013 until the 31 August 2016. The new jointly commissioned contract

removes duplication of provision and provides financial benefit to both partners while offering a better service to children and families. However, there has been an unforeseen delay to the commencement of this contract. Therefore, it is necessary to extend the current contracts for speech and language therapy until 6 October 2013; the new contract is due to commence on 7 October 2013. It is necessary to justify the waiver of Contract Procedure Rules for the additional extensions. There is a risk to the Council, and to the well being of children and young people, if there is a gap in speech and language therapy service provision. As such, it is necessary to waive the usual Contract Procedure Rules and seek authorisation for an additional short term contract extension with the current provider.

Small speech and language therapy providers and other SEN therapies

- 9.3 The use of small providers of SEN therapies meet the specific requirements of children and young people's as outlined at tribunal or in a SEN statement. The joint commissioning of services with health will help to reduce duplication in relation to speech and language therapy in the first instance. However, smaller speech and language therapy providers will need to be used for a period of time while a transition from small providers to the new contracted service can take place, ensuring that the needs of individual children, as set out in the SEN statement, are met.
- 9.4 Further to this, the Council and CCG are beginning to explore any other areas of duplication in relation to other SEN therapies. This transition is inter-related with the 'preparing to meet future need' project that is ongoing within the area of SEN and complex needs and sufficient time is needed to develop the 'local offer' and to implement the changes included in the Children and Families Act. It is necessary to use the identified smaller therapy providers until this work is completed.

Social care placements

- 9.5 Where children cannot be placed with Barnet's own foster carers, due to the specific needs of the child, placements are sought with external agencies. The Council currently has an approved framework agreement in place, the London Care Placements Framework, which contains a number of providers of services for Children's Social Care, covers Independent Fostering Agencies, Residential Children's Homes, and a number of Residential Family Centres. Cabinet Resources Committee has also given authority (24 June 2013) for Barnet to accept the West London Alliance Framework Agreement for Independent Fostering Agency provision. This framework is currently being implemented.
- 9.6 Where providers on these frameworks are not able to provide a suitable placement to meet an individual child's needs, or where a decision has been taken outside of Barnet's control, for example directed by a court or a Children's Guardian, relevant authority will be sought to enter a contractual relationship with a new provider who is not part of an already approved framework.
- 9.7 **Bresslaff Family Assessment Centre**
The Bresslaff Centre undertakes assessments with specific regard to whether it is in a child's best interests to remain within their family unit or be placed in an alternative family setting. They undertake assessments over a 13 week period. London Borough of Barnet was directed in court to use this provision.
- 9.8 **Jamma Umojo**
Jamma Umojo is a residential family centre and offers assessment and treatment services. They offer comprehensive parenting assessments, using multi-disciplinary staff groups which generally run for 12 weeks but may be up to 16 weeks where more complex needs are present. London Borough of Barnet was directed in court to use this provision.

- 9.9 St Christopher's Fellowship
St Christopher's Fellowship have many residential care homes, of which Barnet are currently using two. St Christopher's are able to provide stable, effective placements for young people, including those with very challenging behaviours, in a safe, caring community in which they can learn to build positive relationships.
- 9.10 Capstone Foster Care South West Ltd
Capstone Foster Care South West aims to provide a holistic service that offers both therapeutic and standard foster care placements to children with a range of needs and behaviours.

Troubled Families data collection system

- 9.11 The Troubled Families initiative requires each council to submit evidence for Payment by Results on a quarterly basis. This means collecting and collating data from various sources and matching them to Barnet's Troubled Families, using that data to identify if they meet the DCLG criteria, tracking them continuously to evidence any positive or negative outcomes and reporting on the findings to evidence the impact of Barnet's interventions.
- 9.12 It currently takes a long period of time to collate and cleanse the school census and other data sources. A system would allow Barnet to import the various data sets in a suitable format, match the names and addresses to identify family members and produce reports based on the DCLG criteria to support Barnet's Troubled Families work. Further scoping and development of the business case will take place in conjunction with Capita as required. Having such a system in place would allow Barnet to focus on the analysis of other elements of the Troubled Families work and produce more in depth, accurate analysis of the programme and its success.

10. LIST OF BACKGROUND PAPERS

- 10.1 None

Cleared by Finance (Officer's initials)	AD
Cleared by Legal (Officer's initials)	SD