

**Meeting** Cabinet Resources Committee  
**Date** 2 April, 2014  
**Subject** **Children's Service Contract Arrangements and Extensions**

**Report of** Cabinet Member for Education, Children and Families

**Summary of Report**

This report:

- i) highlights current contracting arrangements within the Children's Service which need to be extended to enable the Council to continue to meet demand on a short term basis and allow sufficient time for ongoing and planned procurement activity to be undertaken;
- ii) seeks waivers from relevant Contract Procedure Rules to enable this

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Status (public or exempt)	Public
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	Not applicable
Function of	Executive
Enclosures	None
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## **1. RECOMMENDATION**

### **1.1 That the Cabinet Resources Committee authorises waivers to the Contract Procedures Rules to allow:**

- 1.1.1 The existing CAMHS contract with Barnet, Enfield and Haringey Mental Health Trust (BEHMHT) to be varied and extended, for the period of 1 April 2014 to 31 March 2015, up to the value of £970,000
- 1.1.2 The 10 Short Breaks contracts to be varied and extended for the period of 1 April 2014 to 31 March 2015, up to the value of £603,955
- 1.1.3 The CIC Healthcare contract with Central London Community Healthcare (CLCH) to be varied and extended for the period of 1 October 2013 to 30 September 2014 up to the value of £119,785
- 1.1.4 The London Care Placements framework agreement for the provision of independent fostering agency services and residential care services to be extended for the period 1 April 2014 to 31 March 2015
- 1.1.5 The regularisation of the current arrangements with CLCH for the provision of Occupational Therapy (OT) for the period 1 April 2013 to 31 March 2015, up to the value of £180,000
- 1.1.6 The variation of the contract with Prospects Services Limited for the provision of assessments and services for young people with learning difficulties, for a reduction of £31,350 from 1 April 2014
- 1.1.7 The contract for with Central London Community Healthcare (CLCH) for the provision of speech and language therapy to Excellence in Clusters schools to be varied and extended for the period 1 April 2014 to 22 July 2014, up to the value of £50,000.

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Cabinet Resources Committee, 19 July 2010, approved the use of the London Care Placements framework, for the period 1 April 2010 to 31 March 2013, with an option to extend for a further year
- 2.2 Cabinet Resources Committee, 7 November 2011, approved the award of contracts to 10 organisations for the provision of Short Breaks for the period of 1 January 2012 to 31 March 2013
- 2.3 Delegated Powers Report 1665, 30 May 2012, approved the award of contract to Prospects Services Limited for the provision of assessments and services for young people with learning difficulties and disabilities, for the period 1 July 2012 to 30 June 2015
- 2.4 Delegated Powers Report 1985, 7 March 2013, approved the extension of the Short Breaks contracts, from the 1 April 2013 until 30 September 2013
- 2.5 Delegated Powers Report 1988, 8 March 2013, agreed to extend the speech and language therapy contract until 30 June 2013
- 2.6 Delegated Powers Report 1986, 15 March 2013, approved the extension of contracts with Oakleigh and Mapledown special schools as single sources suppliers for the period of 1 April to 31 June 2013

- 2.7 Cabinet Resources Committee, 24 September 2013, approved the extension of the contract with CLCH for provision of speech and language therapy to the Excellence in Clusters schools for the period of 1 September 2013 to 31 March 2014.
- 2.8 Cabinet Resources Committee, 18 April 2013, approved the extension of contracts with providers of Short Breaks, SLT and CAMHS until the 31 March 2014. Authorisation was also granted to extend the CIC Healthcare contract
- 2.9 Cabinet Resources Committee, 18 July 2013, authorised a procurement process for the provision Short Breaks services, with new contracts to commence from the 1 April 2014
- 2.10 Cabinet Resource Committee, 4 November 2013, authorised expenditure on residential and external fostering placements for the period 1 April 2014 to 31 March 2015, up to the value of £5,000,000
- 2.11 Cabinet Resources Committee, 16 December 2013 requested authority to extend the existing contracts, with providers of Short Breaks and the CAMHS, for the period 1 April 2014 to 31 March 2015

### **3. CORPORATE PRIORITIES AND POLICY CONSIDERATION**

- 3.1 The ongoing and planned commissioning and procurement activity related to these Children's Service contracts contribute to the priorities of the Council's Corporate Plan 2013-16. This is through the creation of 'better life chances for children and young people across the borough' by sustaining 'a strong partnership with the local NHS, so that families and individuals can maintain and improve their physical and mental health'. These services also help to promote 'family and community wellbeing and encouraging engaged, cohesive and safe communities' through provision of a range of quality services which enhance the council's reputation with families, schools and local communities.
- 3.2 The extension of the contracts, identified in this report, will enable the Children's Service to continue supporting the priorities of the Children and Young People Plan 2013-16. This includes the priorities to enable those with Special Educational Needs, Learning Difficulties and Disabilities and complex needs to achieve their potential and to ensure services are integrated to support young people as they transition to adulthood.

### **4. RISK MANAGEMENT ISSUES**

- 4.1 The existing contracts for CAMHS and Short Breaks are scheduled to end on 31 March 2014. If the decision was made not to extend these contracts, there will not be sufficient time to undertake a comprehensive tender exercise, which would result in an inability to continue providing these services. A break in short breaks provision could lead to potential risk of family breakdown and the need for significantly more costly services such as social work intervention.
- 4.2 If the extension of the London Care Placements (LCP) framework agreement is not approved, the immediate option will be for the Social Care team to spot purchase placements to meet accommodation needs, pending the implementation of an alternative procurement route. This would prove

significantly more time consuming. It would also be difficult to carry out the same level of quality checks and due diligence on providers as is carried out by the LCP given the available resources; this could be detrimental to some of the borough's most vulnerable children and young people.

- 4.3 If the decision was made to end the current contractual arrangements detailed in this report, this would present a risk of the Council being in breach of its statutory duties (see section 7 for details).
- 4.4 The element of the service being removed from the contract with Prospects Services Limited will be delivered in house by the Council from 1 April 2014. Therefore, there will be no impact to service delivery. The Council and the Provider are working together to ensure that an appropriate handover and transfer of cases takes place to avoid any disruption to services.
- 4.5 If the extension to the contract with CLCH for provision of speech and language therapy to the Excellence in Clusters schools was not approved, there would be insufficient time to undertake a procurement exercise to appoint a new provider. This would mean that the children attending the Excellence in Clusters schools would not benefit from the additional provision, which is key to meeting their educational needs. A decision not to approve the contract extension would also impact negatively on the Council's relationship with the schools that constitute the Excellence in Clusters partnership.

## **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 doing so 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. 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 regards to eliminating discrimination.
- 5.2 This duty, also, applies to a person, who is not a public authority but who exercise public functions and therefore must, in the exercise of those functions, have due regards to the general equality duty. This includes any organisation contracted by a local authority to provide services on its behalf.
- 5.3 All contracts listed with this report include explicit requirements fully covering the Council's duties under equalities legislation.

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

### **6.1 Finance**

- 6.1.1 The funding for each of the providers is met from existing budgetary provision within the Children's Services. A breakdown of contract values for each contract is provided below.

6.1.2 With regard to the contract with CLCH for provision of speech and language therapy to the Excellence In Clusters schools, Bishop Douglass School are holding the funding to cover the entirety of the value of the contract extension and will transfer this to the Council immediately on approval of the contract extension.

Providers name	Contract description	Existing contract value	Contract extension sought from	Length of extension sought	Value of extension 2014-15	Total contract duration and end date, including extension	Total contract value including extension
<b>Group A:</b> Contracts requiring waiver of the Contract Procedure Rules to enable a variation & extension for up to a year							
Action for Kids	Short Breaks to Disabled Children	£62,924	1 April 2014	One year to 31 March 2015	Up to £23,039	3 years and 3 months to 31 March 2015	Up to £85,963
Barnet Carers Centre		£18,994			Up to £5,851		Up to £24,845
Community Focus		£72,763			Up to £24,924		Up to £97,687
Noah's Ark		£20,009			Up to £8,857		Up to £28,866
Resources for Autism		£282,111			Up to £94,970		Up to £377,081
Fair Play Barnet (IPOP)		£799,796			Up to £239,500		Up to £1,039,296
Kisharon		£42,220			Up to £13,192		Up to £55,412
Norwood		£79,778			Up to £26,424		Up to £106,202
Oakleigh School	Specialist Short Breaks Services	£100,000	1 April 2014	One year to 31 March 2015	Up to £42,602	4 years to 31 March 2015	£142,602
Mapledown School		£400,000			Up to £124,596		£524,596
BEHMHT	CAMHS	£4,769,000	1 April 2014	One year to 31 March 2015	Up to £970,000	6 years to 31 March 2015	Up to £5,739,000
CLCH	CIC Healthcare	£509,806	1 October 2013	One year to 30 September 2014	Up to £119,785	4 years and 11 months to 30 September 2014	Up to £629,591
CLCH	SaLT for Excellence in Clusters Schools	£747,010	1 April 2014	4 months to 22 July 2014	Up to £50,000	3 years and 4 months to 22 July 2014	£797,010
<b>Group B:</b> Contracts requiring waiver of the Contract Procedure Rules to enable regularisation and extension of the current arrangements with the provider							
CLCH	OT	£89,000	1 April 2013	Two years to 31 March 2015	Up to £180,000	2 years	Up to £180,000

6.1.3 The value of extension for each of the above is subject to any savings deemed necessary to meet the Medium Term Financial Strategy and to further negotiations with health to ensure that financial contributions are appropriate and proportionate in relation to the statutory accountabilities of each party.

#### 6.1.4 London Care Placements Framework

6.1.4.1 The London Care Placement framework agreement does not commit the Council to making any placements with any provider; however it provides the advantages of securing value for money and a range of services being made available at short notice.

6.1.4.2 A budget of up to £5,000,000 for the period 1 April 2014 to 31 March 2015 has been previously authorised (see point 2.9) for expenditure on independent fostering agencies and residential care services.

6.1.4.3 An annual fee of £5,800 is payable to LCP for services such as commissioning and contract monitoring services. This will be funded by the social care budget.

6.1.5 Provision of Assessments and Services for Young People with Learning Difficulties and Disabilities

6.1.5.1 The contract value will be reduced by £31,250 over the period 1 April 2014 to 30 June 2015. The total contract value with variation will be £717,222. The funding for the contract will continue to be contained within existing budgets in Children's Services.

**6.2 Procurement Performance, Value for Money and Sustainability**

6.2.1 There is a significant amount of commissioning and procurement activity, both on-going and planned, across the Children's Services. Section 9 of this report details the plan for each of the contracts being extended and varied by this report; this includes on-going and future procurement activities.

6.2.2 To ensure the good performance and value for money of services, all providers referenced within this report will be subject to quarterly monitoring of their performance, reporting on both qualitative and quantitative information related to service delivery.

6.2.3 The services detailed in this report will be required beyond the extension periods being requested. For these services it will be necessary to re-commission through a competitive tendering exercise. Value for money will be secured through an open tendering process.

**6.3 Staffing, IT, Property**

6.3.1 There are no staffing, IT or property implications for the Council in relation to the contracts listed within this report.

**7. LEGAL ISSUES**

7.1 The Council has prescribed 'health related functions', including CAMHS, which are, with some exceptions, specified in Schedule 1 to the Local Authorities Social Care Act 2012.

7.2 The Council has a duty, pursuant to paragraph 6 of Schedule 2 to the Children Act 1989, to assist individuals who provide care for disabled children, to continue to do so, or to do so more effectively, by giving those breaks from caring.

7.3 Under the Children Act 1989 local Authorities have various statutory duties in relation to children in need. Specifically, Section 17 of the 1989 Act provides that every local authority has a duty providing a level of services appropriate to

those children's needs. Disabled children and young people are defined as children in need by virtue of their disability.

- 7.4 The health provision to looked after children is set out in government guidance, and in the Children Act 1989 Guidance and regulations, volume 2, care planning, placement and care review, regulation 7. It is required as part of the Council's statutory duty to looked after children and children in the process of adoption that they make arrangements to ensure that every child has his/her health needs fully assessed. Health authorities must comply with requests from the local authority to provide services to children in need.
- 7.5 Section 9 Children and Young Persons Act 2008 inserts a new section 22G into the Children Act 1989. The new section imposes, upon the local authority, a general duty to secure sufficient accommodation is made available for children they are looking after.
- 7.6 The Department for Education statutory guidance provides that local authorities must have regard to it when carrying out duties relating to Learning Difficulty Assessments (LDAs) conducted under section 139A of the Learning and Skills Act 2000.

## **8. CONSTITUTIONAL POWERS**

- 8.1 The Council's Contract Procedure Rules outline that a 'Framework Agreement' is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
- 8.2 Contract Procedure Rules direct that Contracts may only be extended or varied if all of the following conditions have been met (paragraph 14: Extensions and Variations):
- 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, 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 (Delegated Powers Report/Cabinet Resources Committee Report) ; and
  - the contract has not been extended before.
- 8.3 In relation to the variation sought in this report for the provision of assessments and services for young people with learning difficulties and disabilities, six out of the six criteria are met.

- 8.4 In relation to the variations and extensions sought in this report for the provision of Short Breaks, CAMHS, CIC Healthcare, LCP and SaLT for Excellence in Clusters schools, five out of the six criteria are met. Acceptance thresholds for contract extensions and variations are met as set out in Table A; Appendix 1 of the Contract Procurement Rules. Cabinet Resources Committee can approve the contract extension values. However, these contracts have been extended before and, as such, a waiver of the Contract Procedure Rules is required.
- 8.5 All applications for a waiver of these Contract Procedure Rules must be submitted to Cabinet Resources Committee specifically identifying the reason for which a waiver is sought.
- 8.6 Justification of the required waivers of the Contract Procedure Rules is clearly set out in section 9 below.

## **9. BACKGROUND INFORMATION**

9.1 This report requests four types of contract extension:

- The CAMHS and Short Breaks extensions described below were included in the Procurement Forward Plan (see 2.6). However, as waivers to the Contract Procedure Rules are required for these, additional information is being provided to support transparency and their authorisation.
- Extensions to arrangements for occupational therapy and children in care healthcare are sought to allow continuity of service provision while future joint commissioning approaches are developed to support better care pathways for service users and maximise the potential for efficiencies, while ensuring that financial contributions are appropriate and proportionate in relation to the statutory accountabilities of the CCG and Council.
- The extension of the contract with CLCH for provision of speech and language therapy to the Excellence in Clusters schools is sought to enable a transitional period during which the schools themselves will take responsibility for commissioning some services to meet special educational needs.
- A year's extension for Barnet to use the London Care Placements Framework is sought in line with the recent London-wide decision to extend this arrangement.

### **9.2 Child and Adolescent Mental Health Service (CAMHS)**

9.2.1 CAMHS supports vulnerable young people including some who have severe and complex mental health problems. The Council and its partners invest significant sums in expensive services to meet the needs of children and young people requiring high levels of support across health and social care and education. Since 2003 the Department of Health has distributed some CAMHS grant funding via local authorities, which is no longer ring-fenced and included within the base budget. The majority of funding for CAMHS is via health, with a smaller Council Contribution.



- 9.2.2 Cabinet Resources Committee 18 April 2013 authorised the extension and variation of the previous CAMHS contract with BEHMHT for the period 1 April 2012 to 31 March 2014 to allow for a new jointly commissioned CAMHS to be tendered and put in place. Under the Contract Procedure Rules, only an extension up to March 2014 was allowed.
- 9.2.3 Due to the mobilisation period of the joint working arrangement with the CCG, it has not yet been possible to enter into a Section 75 in respect to CAMHS or to complete the tender for a new CAMHS contract. Therefore, an extension of the existing CAMHS contract is required for an additional year to provide sufficient time for a comprehensive tender exercise to be undertaken.
- 9.2.4 Authorisation is therefore requested to waive the Contract Procedure Rules to allow for the existing CAMHS contract with BEHMHT to be extended and varied for the period 1 April 2014 to 31 March 2015 up to the value of £970,000.

### 9.3 Short Breaks

- 9.3.1 A competitive tender process was undertaken in 2011 for Short Breaks provision and contracts were awarded to 10 organisations for the period 1 January 2012 to 31 March 2013. Authorisation was then granted (see 2.8) to extend these contracts and undertake a new procurement process, with new contracts to commence on the 1 April 2014. However, the Children and Families Bill is proposing significant changes that could impact on the commissioning of short breaks services from September 2014 and so it is proposed that the new tender process takes place during the 2014/15 financial year to allow these changes to be reflected in future service design.
- 9.3.2 Authorisation is therefore sought to waive the Contract Procedure Rules to allow for the existing contracts with Short Breaks providers to be extended and varied for the period 1 April 2014 to 31 March 2015, for the combined value of up to £603,955.

### 9.4 Children in Care Healthcare

- 9.4.1 As set out in 7.2, the Council and the CCG have a responsibility to ensure that every child who is looked after has his / her health needs fully assessed, a health plan in place and reviewed within statutory timeframes. The current Council contract for this was authorised as per paragraph 2.7. As part of the joint working relationship between the Council and CCG the current arrangements for the provision of CIC Healthcare are being revised. Although a reduction in the Council contribution can be agreed in advance, the existing contract will need to be extended for an additional year to allow continuity of the remaining Council-funded element before longer-term arrangements can be put in place.
- 9.4.2 Authorisation is therefore requested to waive the Contract Procedure Rules to allow for the existing CIC Healthcare contract with CLCH to be varied and extended for the period 1 October 2013 to 30 September 2014. Although the full value extension is being requested, the Council is ensuring that financial contributions are appropriate and proportionate in relation to the statutory accountabilities of the CCG and Council.

## 9.5 London Care Placements Framework

- 9.5.1 In 2010 LCP set up an approved framework of residential and foster care providers, which participating boroughs can use to procure placements for children in care. The use of this framework significantly reduces the cost, time and risk associated with spot purchasing of fostering and residential care placements for children and young people. The LCP team carry out the relevant checks on providers, enabling participating boroughs to enter directly into contract with any provider on the framework, without the need for additional authority. The current LCP framework provider list is stored on a secured website ([www.londoncareplacements.gov.uk](http://www.londoncareplacements.gov.uk)).
- 9.5.2 Cabinet Resources Committee, 19 July 2010 authorised the Council to use this framework for the period of 1 April 2010 to 31 March 2013, with an option to extend for a further year. Due to the strong performance of the framework, the decision was made to employ the option to extend the use of the framework until 31 March 2014.
- 9.5.3 LCP has confirmed that they are going to extend the length of the framework for an additional year until 31 March 2015. Over the four year term, the agreement has provided value for money for the Council, whilst ensuring a wide range of services are available at short notice. It is therefore recommended that we extend the use of the framework for this additional year.
- 9.5.4 Authorisation is therefore sought to waive the Contract Procedure Rules to allow for the framework agreement with the LCP to be extended for a further year until 31 March 2015.

## 9.6 Provision of Assessments and Services for Young People with Learning Difficulties and Disabilities

- 9.6.1 As the amount of money available for the Council to spend over the coming years is reduced, service areas have been required to make budget reductions. Prospects Services Limited was awarded a contract for a period of three years from 1 July 2012 until 30 June 2015 to provide assessment for young people with learning difficulties and disabilities under S140 of the Learning and Skills Act 2000. From 1 April 2014, the Council are able to provide some of these services internally at no additional cost thereby reducing spend without impacting service delivery. In agreement with the provider, it is proposed that the Council will provide support to students with learning difficulties and disabilities attending Barnet and Southgate College from 1 April 2014. The contract will be varied to remove this element of service delivery from the service specification and the contract value will be reduced accordingly.
- 9.6.2 Authorisation is therefore sought to reduce the value of the contract with Prospects Services Limited by £31,350 from 1 April 2014.

## 9.7 Occupational Therapy (OT)

- 9.7.1 The initial provision of OT services was part of pre-existing arrangements with CLCH related to the speech and language therapy contract which expired 31 August 2013. A new contract for the provision of OT has not yet been

tendered as the opportunities for joint commissioning arrangements with the CCG are being explored. As such, CLCH has continued to deliver this service to the Council.

- 9.7.2 To regularise the current arrangements, authorisation is requested to retrospectively authorise CLCH to deliver OT for the period 1 April 2013 – 31 March 2015, up to the value of £180,000. This will also provide sufficient time to assess Council requirements for OT and to maximise opportunities for joint commissioning as appropriate.

#### 9.8 Speech and Language Therapy to Excellence in Clusters Schools

- 9.8.1 The Excellence in Clusters Partnership consists of twenty three schools, all of whom have school populations with a high level of pupils from deprived background, as measured by entitlement to free school meals and other deprivation associated indicators. Schools in the partnership receive additional funding to address the educational consequences of this high level of deprivation. They have chosen to pool their additional funding in order to commission enhanced services as a partnership.
- 9.8.2 Historically, the Council has supported these schools by employing a full time officer as Excellence in Clusters Coordinator, and commissioning services on their behalf. This has included commissioning family support services, educational psychology and speech and language therapy.
- 9.8.3 Provision of speech and language therapy to the Excellence in Clusters schools was achieved by varying the Council's then existing contract with Central London Community Healthcare.
- 9.8.4 Following a joint re-procurement exercise in 2013, the Council no longer commissions speech and language from CLCH. From October 7 2013, the Council's speech and language therapy services have been provided by East London NHS Foundation Trust, with NHS Barnet Clinical Commissioning Group as lead commissioner under a Section 75 Agreement.
- 9.8.5 The Excellence in Clusters schools opted not to join the pooled fund for this new service from East London NHS Foundation Trust as they could not commit to a three year contract.
- 9.8.6 Cabinet Resources Committee, 24 September 2013, approved an extension to the contract with CLCH for speech and language therapy, to cover the Excellence in Clusters schools only, for the period 7 October 2013 to 31 March 2014.
- 9.8.7 The Excellence in Clusters partnership is currently in a state of transition. Once the summer term has ended in July 2014, the member schools will take responsibility for commissioning their own enhanced services. There will not be a role for the Council in commissioning services on their behalf.
- 9.8.8 This contract extension is therefore sought to ensure that the planned programme of speech and language therapy for April to July 2014 can be delivered, enhancing the educational prospects of pupils at these schools.

**10. LIST OF BACKGROUND PAPERS**

None

<b>Cleared by Finance (Officer's initials)</b>	<b>JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>RP</b>