



## Urgency Committee

Thursday 8 July

<b>Title</b>	<b>Procurement of Children’s Integrated Therapies Contract</b>
<b>Report of</b>	Chairman of the Children, Education and Safeguarding Committee
<b>Wards</b>	All
<b>Status</b>	Public with accompanying exempt report due to “information relating to the financial or business affairs of any particular person or body (including the authority holding that information”.
<b>Urgent</b>	Yes
<b>Key</b>	Yes
<b>Enclosures</b>	No
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### Summary

Through a S75 agreement the Local Authority (including Barnet, Education and Learning Service (BELS)) jointly commissions therapy services with the North Central London Clinical Commissioning Group (NCL CCG) as the lead commissioner. The current contract with North East London Foundation Trust (NELFT) comes to the end of its three year term in August 2021 with the option to extend for a further two years.

The existing provider has indicated their intention to step out of the North Central London sub-region and has served notice to terminate this contract. Utilising the contract extension is not an option and it is now critical that we procure another provider which the CCG will lead through a negotiated procedure:

*Due to the extreme urgency brought about by the above situation which was previously unforeseeable, as per Regulation 32(2)(c) of the Public Contract Regulations (PCR) 2015, the NCL CCG will be undertaking a Negotiated Procedure without prior publication of a Contract Notice (advert) to award an interim contract for an initial 1 year period starting from 1<sup>st</sup> September 2021 with the option to extend for a further year from 1<sup>st</sup> September 2022 until 31<sup>st</sup> August 2023. At the end of this process we will seek to undertake a fully competitive process to award the longer term contract.*

There are providers within the NCL sector that have the capabilities, capacity and commitment to take on the service and improve performance.

Authority is required for commitment to spend, undertake the proposed procurement route to enter into contract and for powers delegated to the Executive Director Children and Young People to implement the decision.

## **Officers Recommendations**

- 1. That Urgency Committee agree to jointly procure the Integrated Therapies Service with the CCG, as lead commissioner, through a Negotiated Procedure.**
- 2. That Urgency Committee agrees to enter into a two year contract with the successful bidder and agrees to the Council's contribution of £583,905 for each of the two years.**
- 3. That authority is delegated to the Executive Director for Children and Young People, in consultation with the Chairman of the Children, Education and Safeguarding Committee, to implement the decision.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 This report is needed to inform members of the Urgency Committee of the pressing need to procure the Integrated Therapies service and of the proposed procurement process. The impacts of the pandemic have increased pre-existing delivery issues and NELFT have served notice on the contract.
- 1.2 At the beginning of the pandemic, health services were re-directed to support hospitals in the treatment and care of patients with Covid-19 and have been required to give ongoing support to help deal with the pandemic. This has reduced the capacity of some of the services in health, including therapies to deliver on their core duties.
- 1.3 The Clinical Commissioning Group (CCG) leads and jointly commissions, with the Local Authority (including BELS), North East London Foundation Trust (NELFT) to deliver therapies in Barnet. Like other providers, NELFT have had considerable difficulties with capacity, recruitment and retention of staff over the last 12 months. These difficulties are not isolated to Barnet, and many other local authorities are also experiencing problems in delivering therapy services.

- 1.4 The Local Authority is at risk of not meeting its statutory requirements, set out in the Children and Families Act 2014, in relation to assessments; the provision of therapies set out in Education and Healthcare Plans; and quality of provision:
- 1.5 Short to medium term performance improvement measures have been put in place and the local authority, BELS, the CCG and NELFT have been working very closely to prioritise and increase the therapy support available to children and families, and schools. They are working with individual private therapists and other private providers to secure more therapists, who will work alongside NELFT in undertaking assessments and delivering therapies to children with therapy provision in their EHC Plan.
- 1.6 In addition to this Whittington Health NHS Trust has been commissioned to lead recovery work over the remainder of the Summer term and Autumn term. This is part of ongoing work with Whittington Health to build greater resilience into our therapy provision in Barnet.
- 1.7 In addition to the work being undertaken to obtain and deliver more therapy support BELS is also putting together a recovery package of support for schools. This includes offering all mainstream primary and secondary schools in Barnet access to a qualified private Speech and Language Therapist who will train school staff and facilitate small group support for pupils with a lower level of need who will benefit from a language enrichment programme. This started in June and will be repeated in the Autumn term. From September, the Language Enrichment Programme will be extended to Early Years providers, including PVIs, and there will also be a Language Enrichment training programme for parents and carers. BELS have also commissioned two private Occupational Therapists to deliver a programme of support for Reception, Yr1 and Yr2 pupils from September. This is for children with 'low level' Occupational Therapy needs, including core stability, fine motor skills and handwriting skills. To help increase OT capacity, BELS are working with an independent OT provider to offer a seconded role of OT Assistant to a Teaching Assistant in one of the special schools.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 A solution for the longer term, beyond Autumn, is required. The measures outlined above are short term and will only have limited impact. The existing provider has served notice on the contract therefore contract extension is not an option. We need to procure a provider that can lead and embed sustainable improvements at pace. The NCL CCG has established that there are NHS Trust providers within the NCL sector with the capacity, capabilities and commitment to take on this service.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMEND**

- 3.1 Contract extension-is not an option-The existing provider NELFT has served notice.
- 3.2 Enter into a S75 agreement directly with another NHS Trust within the NCL sector-not a recommended option as the NCL CCG has established that there are several interested providers within the sector.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 Local Authority commissioners will work with colleagues from the CCG to run a negotiated procedure to establish a provider to enter into contract
- 4.2 The CCG has commenced the process, at its own risk, prior to Local Authority authorisation.
- 4.3 The provider will be required to develop a plan to make service improvements which will be monitored through regular meetings between all parties.
- 4.4 NCL CCG is reviewing therapy services for children, across the sector, to establish equity of provision and investment which will support improvements.

#### **5. IMPLICATIONS OF DECISION**

##### **5.1 Corporate Priorities and Performance**

- 5.2 Provision of a well performing therapies service supports the council's priorities: Family Friendly -enabling opportunities for our children and young people to achieve their best; Clean, Safe and well run-providing good quality services; Healthy-enabling CYP to live healthy, happy lives.

##### **5.3 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.4 Total cost of a two-year contract is £ 6,611,024. The Local Authority's contribution is £1,167,810 through DSG and BELS core funding.

##### **5.5 Legal and Constitutional References**

- 5.5.1 Regulation 32 (2) (c) of the Public Contracts Regulations 2015 allows contracting authorities to award public contracts by a negotiated procedure without prior publication of a contract notice (public advertising on Find a Tender) where "insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with".
- 5.5.2 The Lead Commissioner has determined the approach and gauged levels of risk associated with this approach.
- 5.5.3 Section 42 of the Children and Families Act 2014 imposes the duty to secure special educational provision and health care provision in accordance with the child's EHC Plan.

5.5.4 “Under the council’s Constitution (the Authorisation and Acceptance Thresholds in the Contract Procedure Rules) authorisation to commence a procurement process where the contract value exceeds £500k, is by way of a Committee Report or the Procurement Forward Plan. The contract spend by the council under the proposed contract exceeds this threshold and is not currently authorised by committee or in the Procurement Forward Plan.

5.5.5 There are urgency provisions under the constitution in Article 10.7 – “If a decision on an issue is required as a matter of urgency an Urgency Committee comprising of the Leader, the Deputy Leader, and the Leader of the Opposition will be called. The Chairman of the relevant Committee should be consulted”. As the council needs to procure the contract urgently and the next relevant theme committee is not until September 2021, approval is being sought by the Urgency Committee”

## 5.6 **Insight**

5.7 Performance information from NELFT has informed the recommendation in this report.

5.8 As outlined in the Council’s Constitution Article 7, the Urgency Committee can consider any item of business which needs a decision as a matter of urgency and where a meeting of the relevant Committee is not scheduled to take place within the time period within which the decision is required.

## 5.9 **Social Value**

5.10 The Public Services (Social Value) Act 2013 requires people who commission public

5.11 services to think about how they can also secure wider social, economic and environmental benefits. Before commencing a procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

## 5.12 **Risk Management**

5.13 Risks are monitored by the project group overseeing the procurement and the improvements and escalated through the individual escalation routes of the CCG and Local Authority.

## 5.14 **Equalities and Diversity**

5.15 The 2010 Equality Act outlines the provisions of the Public-Sector Equalities Duty which requires Public Bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and
- other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people from different groups
- foster good relations between people from different groups

5.16 The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services.

5.17 Equalities and diversity considerations are a key part of delivering an accessible and responsive therapies services. Data will be monitored regularly to enable providers and commissioners to identify and respond to any practice issues that need addressing.

### 5.18 **Corporate Parenting**

5.19 The corporate parenting principles set out seven principles that local authorities must have regard to when exercising their functions in relation to looked after children and young people, as follows:

1. to act in the best interests, and promote the physical and mental health and wellbeing, of those children and young people;
2. to encourage those children and young people to express their views, wishes and feelings;
3. to take into account the views, wishes and feelings of those children and young people;
4. to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners;
5. to promote high aspirations, and seek to secure the best outcomes, for those children and young people;
6. for those children and young people to be safe, and for stability in their home lives, relationships and education or work; and; to prepare those children and young people for adulthood and independent living.

5.20 Ensuring that our looked after children receive timely and quality therapy provision is essential to supporting positive development and outcomes.

### 5.21 **Consultation and Engagement**

5.22 There has been regular engagement with the Barnet Parent Carer Forum and with schools to obtain their feedback on provision and to inform them of what is happening to make improvements. Parents, carers, schools and partners were written to at the end of May and there will be two 'open sessions' on therapies for parent carers. Senior officers from the local authority, BELS, Whittington Health, NELFT and the CCG will be attending these sessions to respond to questions and concerns.

## 6. **BACKGROUND PAPERS**

6.1 None