

	<b>CHIEF OFFICER DELEGATED POWERS REPORT IN CONSULTATION WITH THEME COMMITTEE CHAIRMAN</b>
<b>Title</b>	Waiver to extend the Barnet Carers and Young Carers Support Services contract by a further 6 months from 3 <sup>rd</sup> October 2021 until 31 <sup>st</sup> March 2022.
<b>Report of</b>	Executive Director, Adults and Health
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	None
<b>Officer Contact Details</b>	<p>Sameen Zafar, Health and Social Care Commissioner  <a href="mailto:Sameen.Zafar@Barnet.gov.uk">Sameen.Zafar@Barnet.gov.uk</a></p> <p>Sarah Perrin, Head of Commissioning for Mental Health &amp; Dementia, <a href="mailto:Sarah.Perrin@Barnet.gov.uk">Sarah.Perrin@Barnet.gov.uk</a></p>

<b>Summary</b>
<p>Carers and young carers support services deliver a range of preventative support to adult and young carers in Barnet. On 16<sup>th</sup> February 2016 the Policy and Resources Committee agreed to authorise the procurement of carers and young carers support services and the services were put out to tender on 22<sup>nd</sup> April 2016. Following a competitive procurement process, it was recommended that the contract was awarded to Barnet Carers Centre (BCC). The contract term was for three years from 3<sup>rd</sup> October 2016 to 2<sup>nd</sup> October 2019 with the option to extend for a further two years, subject to performance and finances</p>
<p>The contract is an integrated contract for both Adult Social Care and Family Services. The total contract value for the initial 3-year term of the contract was £1,171,999, with a total global contract value of up to £1,937,048 in the event the contract was extended by up to a further two years. In July 2019 a two-year extension with the provider was agreed and the current contract is due to end on 2<sup>nd</sup> October 2021.</p>
<p>This report seeks authorisation for a waiver to extend past the initial extension term by a further 6 months from 3<sup>rd</sup> October 2021 until 31<sup>st</sup> March 2022. This extension is requested on the basis that the Covid 19 pandemic delayed procurement of a new contract and will allow a full competitive procurement exercise to be undertaken. The new contract for carers and young carers support services will be in place following the procurement</p>

process being completed for 1<sup>st</sup> April 2022.

**Decision**

**1. To authorise a waiver to extend the Barnet Carers and Young Carers Support Services contract by a further 6 months from 3<sup>rd</sup> October 2021 until 31<sup>st</sup> March 2022.**

**1. WHY THIS REPORT IS NEEDED**

- 1.1 This report seeks authorisation to apply a waiver to further extend the Barnet Carers and Young Carers Support Services contract by a further 6 months. The current contract for Barnet Carers and Young Carers Support Services is due to end on 2<sup>nd</sup> October 2021.
- 1.2 Carers and young carers support services are a key component of the Council's early intervention and prevention offer and aims to support carers and young carers to maintain and maximise their health and wellbeing. The services delivered through this contract provide an integrated service offer across both Adult Social Care and Family Services.
- 1.3 The carers and young carers support services contract forms part of the Council's statutory duties under the Care Act 2014 including duties regarding; promoting wellbeing (see section 1 of the Care Act 2014), prevention (see Section 2 of the Care Act 2014), information and advice (see Section 4 of the Care Act 2014), transition to adult care and support (see Sections 58-66 of the Care Act 2014) and, the duty and power to meet a carer's need for support (see Section 20 of the Care Act 2014). This contract also forms part of the Council's statutory duties under the Children and Families Act 2014 regarding assessments for young carers.
- 1.4 The Annual Procurement Forward Plan 2021/22 includes authorisation for both Adult Social Care and Family Services to carry out a competitive procurement exercise for carers and young carers support services. However, following discussion with colleagues across Adults and Family Services it was recommended that the current contract in place was extended by a further 6 months beyond the current contract end date (2<sup>nd</sup> October 2021). This extension was recommended to ensure that there was sufficient time to complete a competitive procurement exercise. The tender for carers and young carers support services is currently out to the market and is due to close on 28<sup>th</sup> September 2021. The intention is that a new contract for carers and young carers support services will be in place from 1<sup>st</sup> April 2022.
- 1.5 The granting of this waiver will amount to a global contract value of £1,846,180.
- 1.6 The Council seeks a waiver in accordance with Rule 12.2 of the Authority's Contract Procedure Rules (**CPRs**), which states that approved Officers may take decisions on emergency matters (i.e., an unexpected occurrence requiring immediate action) in consultation with the Chairman of Policy and Resources Committee providing they report to the next available Policy and Resources Committee, setting out the reasons for the emergency waiver. A copy of the relevant Policy and Resources Committee report must be provided to CSG Procurement and stored on the Council's contract repository. Any

waiver should only be granted for a maximum period of 12 months, except in exceptional case.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The Council has statutory duties to ensure there is a high-quality carers and young carers support services. The services help the council to manage the demand of people needing care and support, whilst also ensuring that carers and young carers have access to a range of support to maintain and maximises their health and wellbeing.
- 2.2 The recommendation to authorise a waiver to extend the contract for a further six months is made on the basis that the extension period takes into account the impact of Covid 19 and provides additional time for a full competitive procurement exercise to be undertaken with time to support mobilisation of a new contract.
- 2.3 A full competitive procurement process is currently underway, and this extension ensures continuity of services, until the new contract is awarded and mobilised effectively for 1<sup>st</sup> April 2022.

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

- 3.1 Commissioners considered completing a competitive procurement exercise for these services to ensure that a new contract would be in place by 3<sup>rd</sup> October 2021. However, this option was not recommended as it presented a high level of risk in view of the impact of Covid 19 and the current role that the provider of these services has played in response to the pandemic. This is particularly with regard to supporting with the local Covid 19 vaccination programme for carers. Additionally, due to the complexity of this contract, commissioners recommend an extension to the current contract term to support additional time for mobilisation of a new contract.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 If there is agreement to authorise a waiver to extend the current contract by a further 6 months, the Council, supported by HB Public Law will put into place a further contract extension with the current provider.
- 4.2 For the duration of the contract extension, the incumbent provider will be monitored by the Council to ensure that ongoing performance meets the requirements set out in the performance framework.
- 4.3 Alongside this, a competitive procurement is underway to ensure that a new contract is in place for this service from the end of the recommended contract extension.

## **5. IMPLICATIONS OF DECISION**

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

- 5.1.1 The Council's Corporate Plan strategic objectives are that the Council, working with local, regional, and national partners, will strive to ensure that Barnet is the place:

- Where people are helped to help themselves, recognising that prevention is better than cure
- Where responsibility is shared, fairly
- Where services are delivered efficiently to get value for money for the taxpayer.

5.1.2 Authorising a waiver to extend the current contract in place for carers and young carers support service will support the Council in meeting these objectives.

5.1.3 The contract with the provider will be robustly monitored and reviewed including their performance through key performance measures and outcome indicators.

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

5.2.1 Through applying a waiver to authorise a further extension to the contract by 6 months, the total contract value for 2021/2022 will be £355,091. This comprises £226,823 from the Adults budget and £128,268 from the Family Services budget and is within the existing budget envelope. The total global spend of the contract will be £1,846,180.

5.2.2 Regular financial monitoring forms part of the contract, as does working within the ethos of continuous service improvement. The provider will be required to evidence key performance indicators that will form part of performance monitoring.

5.2.3 Contract monitoring will continue to take place on a quarterly basis.

## 6. Social Value

6.1 The Public Services (Social Value) Act 2012 requires people who commission public 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. There is no definitive list of what those improvements could be. The Act is deliberately flexible, giving public bodies freedom to determine what best suits local needs, as well as providers the opportunity to innovate.

6.2 Social Value will be considered as part of the evaluation of bids received following a competitive procurement process.

## 7. Legal and Constitutional References

7.1 Given that the overall contract value plus extension is within the budget approved via the Annual Procurement Forward Plan, the appropriate authorisation document for this decision as set out in the CPRs is via a Full Delegated Powers Report as the value of the

original contract, subsequent extensions as well as the proposed 6-month extension totals to over £500,000. This is in accordance with CPR 11.3.

## 7.2 **CPR 11** (*Extensions and Variations*) applies where a contract is to be extended or varied.

7.2.1 All extension options under the current contract have been exhausted. Where this is the case, CPR 11.1 states that 'under Regulation 72 of the Public Contract Regulations 2015, certain amendments, extensions, or renewals of an existing Contract can be made without triggering a requirement for a new Procurement exercise, subject to financial limits. Regulation 72 (1)(b) allows for additional services to be provided by the original provider where it has become necessary but was not contemplated in the original contract, and where a change of provider would cause significant inconvenience or substantial duplication of costs for the contracting authority', as long as the value of the extension does not exceed 50% of the original contract value.

7.2.2 The current contract in place for carers and young carers support services expires on 2<sup>nd</sup> October 2021 and the Council will be unable to complete the full competitive procurement exercise underway and mobilise a new contract prior to the expiry date of the current contract. This would mean a gap in service provision for carers and young carers in Barnet and statutory duties not being fulfilled; and thus 'causing significant inconvenience'. The 6-month extension requested allows the Council adequate time to complete the competitive procurement exercise, whilst ensuring the service continues to be delivered. The original contract value is £1,937,048, and with the extension value being £186,545, the value of this extension is below 50%, and thus, justification is established under Regulation 72(1)(b).

7.2.3 CPR 11.4 has further requirements in addition to justifying the use of Regulation 72, these are addressed as followed:

- The initial contract was based on a CPRs compliant tender process.
- The value of the extension does not exceed the original authorisation threshold and would not in any case due to it being at the maximum threshold i.e., over £500,000.
- The extension has relevant budget allocation as it was included in the Annual Procurement Forward Plan.
- This extension option was not declared in the original OJEU contract notice nor in the original acceptance report. However, this is where the Council would seek to rely on CPR 12.2, due to the extension being an unexpected occurrence requiring immediate action, to waive this part of CPR 11.4.

7.3 Section 12.2 of the Contract Procedure Rules in the Council's Constitution, states that approved Officers may take decisions on emergency matters (i.e. an unexpected occurrence requiring immediate action) in consultation with the Chairman of Policy and Resources Committee providing they report to the next available Policy and Resources Committee, setting out the reasons for the emergency waiver. A copy of the relevant

Policy and Resources Committee report must be provided to CSG Procurement and stored on the Council's contract repository. Any waiver should only be granted for a maximum period of 12 months, except in exceptional case.

- 7.4 Subject to authorisation through this Delegate Powers Report, HB Public Law will enact the extension to the current contract.

## **8. Risk Management**

- 8.1 Further extending the current contract in place is unlikely to raise public concern as it will ensure continuity in service provision. There would be a risk of significant levels of public concern were the services not to be continued.
- 8.2 A full competitive procurement process is underway and a new contract for carers and young carers support services will be in place effective from 1<sup>st</sup> April 2022. The current procurement allows sufficient time to ensure that key mobilisation activity can occur ahead of the new contract commencing.
- 8.3 There are no risks to the Council with regards to the Transfer of Undertakings (Protection of Employment) Regulations 20016 ('TUPE') for the extension period.
- 8.4 The carers and young carers contract provides high quality support to carers and young carers in the borough, and the terms of the contract set out the responsibilities to deliver a high-quality service.

## **9. Equality and Diversity**

- 9.1 The core provisions of the Equality Act 2010 came into force on 1<sup>st</sup> October 2010 and the public sector equality duty (section 149 of the Act) came into force on 5<sup>th</sup> April 2011. Under section 149, the Council must have due regard to the need to eliminate discrimination, harassment and victimisation prohibited under the Act and to advance equality for opportunity and foster good relations between those with protected characteristics and those without.
- 9.2 The protected characteristics are age; disability; race; gender reassignment; pregnancy and maternity; religion or belief; sex; and sexual orientation. They also cover marriage and civil partnership regarding eliminating discrimination.
- 9.3 Any organisation providing public sector services is subject to scrutiny by the Council to ensure that delivery complies with the public sector equality duty.
- 9.4 The contract for carers and young carers support services includes explicit requirements fully covering the Council's duties under equality legislation and the specification requires that hard to reach groups are to be identified and have the opportunity to receive the service.
- 9.5 The carers and young carers support services contract will continue to target resources to those most in need and there will be contract monitoring to ensure that the service meets the needs of hard-to-reach groups. The provider will continue to be asked to provide statistical data and evidence that the service is accessible to all.

- 9.6 The service specification requires involvement and inclusion of the wider community in all areas of work. The success of engagement with the wider community and hard to reach groups will be monitored through the contract monitoring processes and the provider will be required to address any anomalies where potential under-representation can be rectified or when an action has unintended consequences.

## **10. Corporate Parenting**

- 10.1 None in the context of this report.

## **11. Consultation and Engagement**

- 11.1 Engagement activity with residents has been carried out to inform the development of the future service and remains a vital aspect of the service delivery.

## **12. Insight**

- 12.1 N/A

## **13. BACKGROUND PAPERS**

- 13.1 The Policy and Resources Committee agreed the Annual Procurement Forward Plan 2021-22 on 8<sup>th</sup> December 2020, which includes authorisation for Adults to procure carers and young carers support services (line 302:

<https://barnet.moderngov.co.uk/documents/s62439/Appendix%201%20Annual%20Procurement%20Forward%20Plan%20202122.pdf>

Chairman: **Cllr Thomas**

Has been consulted

Signed



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Date 19/09/2021

Chief Officer: **Dawn Wakeling**

Decision maker having taken into account the views of the Chairman

Signed

*D. Waleling*

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Date 17/09/2021