

DELEGATED POWERS REPORT NO.

1982

SUBJECT: Extension of Children's Service Therapy Contract

Control sheet

**All of the following actions MUST be completed at each stage of the process and the signed and dated report MUST be passed to the Governance Service for publishing**

<b>All reports</b>		
1. Governance Service receive draft report	Name of GSO Date	Paul Frost 27/2/13
2. Governance Service cleared draft report as being constitutionally appropriate	Name of GSO Date	Paul Frost 27/2/13
3. Finance clearance obtained ( <i>report author to complete</i> )	Name of Finance officer Date	Collette Sutton 5/3/13
4. Staff and other resources issues clearance obtained ( <i>report author to complete</i> )	Name of Resource officer Date	N/A
5. Strategic Procurement clearance obtained ( <i>report author to complete</i> )	Name of SPO Date	Lesley Meeks 26/2/13
6. Legal clearance obtained from ( <i>report author to complete</i> )	Name of Legal officer Date	Sheila Saunders 5/3/13
7. Policy & Partnerships clearance obtained ( <i>report author to complete</i> )	Name of P&P officer Date	Andrew Nathan 25/2/13
8. Equalities & Diversity clearance obtained ( <i>report author to complete</i> )	Name of officer Date	Andrew Nathan 25/2/13
9. The above process has been checked and verified by Director, Head of Service or Deputy	Name Date	Sharon Scott 6/3/13
10. Signed & dated report, <u>scanned or hard copy</u> received by Governance Service for publishing	Name of GSO Date	Andrew Charlwood 6/3/13
11. Report published by Governance Service to website	Name of GSO Date	Andrew Charlwood 28/3/13
12. Head of Service informed report is published	Name of GSO Date	Andrew Charlwood 28/3/13
<b>Key decisions only:</b>		
13. Expiry of call-in period	Date	N/A
14. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet Members & Head of Service	Name of GSO Date	

**ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER  
(EXECUTIVE FUNCTION)**

**Subject**                                      **Extension of Children’s Service  
Therapy Contract**

**Officer taking decision**      Interim Assistant Director for  
Transformation

**Date of decision**                          6 March 2013

Summary	To extend the contract with Sally Wright Associates for the provision of occupational therapy and physiotherapy for the period 1 April 2013 to 30 September 2013 to the value of £11,825.
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**Officer Contributors**                      Lindsey Hyde, Strategy and Projects Officer  
Denise Jacobson, Acting Divisional Manager,  
Complex Needs

**Status (public or exempt)**              Public

**Wards affected**                              All

**Enclosures**                                      None

**Reason for exemption from call-in (if appropriate)**      Not applicable

**Key decision**                                      No

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## **1. RELEVANT PREVIOUS DECISIONS**

1.1 None

## **2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

2.1 Providing services to vulnerable children, young people and their families is a key priority across the council and its partners. The Corporate Plan 2012-13 includes the strategic objective of 'safeguarding vulnerable children and adults'.

2.2 Extending this contract will enable the Children's Service to continue supporting the priorities of the Children and Young People Plan 2012-13, in particular to ensure high quality provision for disabled children and young people and those with complex needs.

## **3. RISK MANAGEMENT ISSUES**

3.1 The current contract with Sally Wright Associates is due to come to an end on 31 March 2013. An inability to continue the contract with this provider to provide occupational therapy and physiotherapy to children with a statement of special educational needs would place some of the borough's most vulnerable children and young people at risk and would risk the Council not fulfilling its statutory duties.

3.2 The Council will continue to ensure that, during this interim period, Sally Wright Associates remains compliant with all relevant and appropriate standards in terms of their service, quality, policies and procedures.

3.3 I do not consider the issues involved are likely to raise significant levels of public concern or give rise to policy considerations.

## **4. EQUALITIES AND DIVERSITY ISSUES**

4.1 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; 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.

4.2 Sally Wright Associates is a provider of occupational therapy and physiotherapy to children and young people with a statement of special educational need. Sally Wright Associates provides services to children and young people of all faiths and cultures, and is committed to ensuring that there is equality of service provision to all. The ongoing monitoring arrangements with this provider ensure that the service provision meets the diverse needs of Barnet's children and young people.

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

### Finance

- 5.1 The contract with Sally Wright Associates that expires on 31 March 2013 is a 2 year contract. The whole life value of this contract is £49,700. For the period from 1 April 2013 to 30 September 2013 it is projected that the value of the contract extension will be £11,825. The total value of the contract including this extension is £61,525. This will be contained within existing agreed budgets for Complex Needs. A report will be taken to Cabinet Resources Committee on 18 April 2013 to report this extension.
- 5.2 The exact value of spend can vary in relation to the demand to meet the needs of children with a statement of special educational need at any point in time. Therefore, the figures could increase if additional placements are made over the terms of the contracts. The costs will be contained within existing Complex Needs budgets.

### Procurement, Performance, Value for Money and Sustainability

- 5.3 For the duration of the contract extensions, Sally Wright Associates will be regularly monitored to ensure that they meet the specified outcomes and represent value for money.
- 5.4 Work is underway to establish a provider framework agreement. This work should be completed by September 2013. Continuity of service must be maintained until the Framework is in place so an extension of the current arrangement is requested.

### Staffing, IT, Property

- 5.4 There are no staffing, IT or property implications in relation to this contract.

## **6. LEGAL ISSUES**

- 6.1 Statutory assessments of Special Educational Need are carried out in accordance with Sections 323 and 324 of the Education Act 1996 ('the Act') and the Education (Special Educational Needs) Regulations 2001. When assessing the child's educational needs under Section 323 of the Education Act 1996, the authority takes into consideration, in accordance with Regulation 11 of the Regulations, the evidence and advice set out in the Appendices to the statement which include parent and child perspectives and reports from professionals, including occupational therapists and physiotherapists. Occupational and physiotherapy requirements are usually detailed in Section 3 of the final statement of Special Educational Needs.
- 6.2 Parents have the right to appeal to the Special Educational Needs and Disabilities Tribunal in relation to a number of factors which include the provision of a statutory assessment, the statement of special educational need, the details of access to provision and therapy, whether the proposed provision and therapy is being made available and the placement decision. Challenge can also be in the form of Ombudsman complaints and investigations and judicial review. Failing to provide the required Occupational and physiotherapy not only leaves the authority open to

challenge but can lead to compensation and more expensive provision having to be made.

## **7. CONSTITUTIONAL POWERS**

- 7.1 Constitution, Part 3, Responsibility for Functions, Section 6.1 -Powers Delegated to Officers - Chief Officers (i.e. the Chief Executive, Directors and Heads of Service as listed in Article 12) can take decisions without consultation with the Cabinet Member concerned where it is a decision authorised to be taken by the Chief Officer under the Contract Procedure Rules for approved schemes with sufficient estimate provision.
- 7.2 Constitution, Part 4, Contract Procedure Rules, Section 5.6 – Acceptance Parameters for Contract Additions, Extensions and Variations - The Acceptance thresholds for contract additions, extensions and variations are as set out in Table 5-2. Contract extensions and variations are, also, subject to the following:
- 5.6.1 In the case of an extension to a contract:
- 5.6.1.1 The initial contract was based on a competitive tender or quotations;
  - 5.6.1.2 the initial contract has not been extended before; and
  - 5.6.1.3 the value of the extension is less than half the cost of the existing contract without the extension and has a budget allocation having had regard to the following:
    - i. If initial contract was subject to EU tender procedure that the extension option was declared within the OJEU notice; acceptance report (Delegated Powers Report/Cabinet Resources Committee Report) and the contract includes extension clauses
    - ii. If initial contract value was subject to sub EU threshold procedure (Barnet tender/ quotation process) the extension does not take the value past EU threshold.
- 7.2 Constitution, Part 4, Contract Procedure Rules, Section 5.6 (Table 5-2) sets out acceptance thresholds for contract extensions and variations. Directors/Assistant Directors can authorise contract extensions and variations up to £173,933 in value but must report afterwards to the relevant Cabinet Member.
- 7.4 The value of the contract extension with Sally Wright Associates is within the acceptance threshold for Directors/Assistant Directors.

## **8. BACKGROUND INFORMATION**

- 8.1 There is a statutory duty on the local authority to ensure the provision of therapies identified on a statement of special educational need. An over riding factor is prevention of periods when required therapy is not delivered which presents a high risk of formal and legal challenge and high compensation.
- 8.2 Sally Wright Associates specialise in providing services relating to occupational therapy and physiotherapy. This provision is utilised when circumstances arise which require service provision additional to that available through the Central London Community Healthcare contract. The majority of children receiving these occupational therapy and physiotherapy services attend mainstream schools and

receive these services to support them in mainstream schools. During 2013/14 the services will be required for children who currently receive these services. It is also anticipated that during 2013/14 the services provided by this contract will need to be utilised for additional children. A provider framework agreement will be in place from September 2013. An extension of the current contract with Sally Wright Associates is needed to provide continuity of service provision until that time.

**9. LIST OF BACKGROUND PAPERS**

9.1 None

**10. OFFICER'S DECISION**

**10.1 I authorise the following action:**

**The extension of the current contract with Sally Wright Associates for the provision of occupational therapy and physiotherapy for the period 1 April 2013 to 30 September 2013 at a cost of up to £11,825.**

<b>Signed</b>	<b>Sharon Scott</b> <hr/>
<b>Date</b>	<b>Interim Assistant Director for Transformation</b> <b>6 March 2013</b> <hr/>