

	<p align="center">London Borough of Hammersmith & Fulham</p> <p align="center">CABINET</p> <p align="center">2 MARCH 2015</p>
<p>SPEECH AND LANGUAGE THERAPY SERVICE LEVEL AGREEMENT EXTENSIONS (2015-2016)</p>	
<p>Report of the Cabinet Member for Children and Education – Councillor Sue Macmillan</p>	
<p>Open report</p> <p>A separate report on the exempt part of the Cabinet agenda provides exempt information on current costs and budgetary provision.</p>	
<p>Classification - For Decision Key Decision: Yes</p>	
<p>Wards Affected: All</p>	
<p>Accountable Executive Director: Andrew Christie, Director of Children’s Services</p>	
<p>Report Author: (name and title) Rachael Wright-Turner - Tri Borough Director for Commissioning</p>	<p>Contact Details: Tel: 020 7745 6399 E-mail: Rachael.Wright-Turner@rbkc.gov.uk</p>

1. EXECUTIVE SUMMARY

- 1.1. This report requests that Cabinet agrees to waive the Council’s Contracts Standing Orders to approve extensions to the Hammersmith and Fulham contracts for speech and language therapy services for 18 months from 1 April 2015 - 30 September 2016. Extensions are required in order to support the completion of a joint competitive procurement process between the Local Authority and NHS for provision of speech and language services.

2. RECOMMENDATIONS

- 2.1 That Contract Standing Orders be waived, in accordance with CSO section 3.1, to approve an extension of the Early Years speech and language contract from 1 April 2015 to 30 September 2016 with the current provider, Central London Community Healthcare NHS Trust (CLCH).
- 2.2 That Contract Standing Orders be waived, in accordance with CSO section 3.1, to approve the extension of the Education speech and language service level agreement from 1 April 2015 to 30 September 2016 with the current provider, Central London Community Healthcare NHS Trust (CLCH).
- 2.3 That approval be given to the placing of a joint prior indicative notice with the NHS Clinical Commissioning Groups to signal the intention of running a competitive tendering exercise in 2015-16, and to help support pre-procurement dialogue with potential providers on how to optimise quality and value for money in the new contract.
- 2.4 That authority be delegated to the Cabinet Member for Children and Education to take any further decisions needed to continue existing service provision until the new contract is in place, should this be needed to ensure service continuity.

3. REASONS FOR DECISION

- 3.1. It is considered that a minimum of 18 months (April 2015 to September 2016) is required to complete a comprehensive and rigorous procurement exercise for paediatric speech and language therapy. The request for extensions to current contracts supports this exercise.
- 3.2. This includes sufficient time to provide the incumbent provider the requisite 12 month notice period, as per standard NHS contracts. As the Local Authority will need to end their service level agreements at the same time, it must also work to these timelines.
- 3.3. The extension period also allows sufficient time to develop a joint Local Authority and NHS exemplar service specification and outcomes focused performance framework needed to deliver a robust and effective tender (also requiring a minimum of 9 months to complete). If a new provider is appointed time will also need to be built in to TUPE over existing staff, a minimum of 3 months will be required for this work.
- 3.4. During the three year period for implementation of the Children and Families Act the Local Authority has a duty to undertake transfer reviews for children with a statement of Special Educational Need (SEN) to support the transfer to an Education, Health and Care Plan

(EHC). Parents have the opportunity to request speech and language therapy advice and/or assessment as appropriate during this process.

4. INTRODUCTION AND BACKGROUND

- 4.1. Contract extensions are sought for the Education and Early Years speech and language service agreements with the current provider Central London Community Healthcare NHS Trust (CLCH).
- 4.2. Extending arrangements with the current provider will ensure service continuity, and meet the expanded requirements of the Local Authority in implementing new duties under the Children and Families Act, while further work is carried out with the current market place providers to ensure readiness for the future joint procurement exercise.
- 4.3. Joint commissioning of speech and language therapy services will allow the Local Authority and Clinical Commissioning Group (CCG) the opportunity to fulfil the new legislative requirements set out in the Children and Families Act 2014. Information on the procurement work to date is outlined further in the report.
- 4.4. The transfer of children's statements of SEN to EHC Plans is also anticipated to lead to an increased demand for speech and language therapy advice to inform transfer reviews. Consequently the commissioned speech and language therapy for LBHF is being increased by one full-time equivalent post for the remainder of this contract; 18 months. The additional speech and language therapist will support the provision of a local offer for children in mainstream schools, without a statement of SEN/EHC plan and additional assessment demands, including in the post 16 age range.
- 4.5. Moving forward, it is proposed to strengthen the joint commissioning of speech and language therapy services.
- 4.6. A speech and language project group will progress this work through the appropriate governance channels and report on key commissioning and procurement milestones, and seeking approval at the relevant contracting stages.
- 4.7. The commissioning timeframe will include the provision of early updates on benchmarking and market warming exercises to share information on the speech and language therapy market, which will in turn impact on the eventual commissioning strategy approach, to be signed off in accordance with the Council's Standing Orders.

5. PROPOSAL AND ISSUES

5.1. Procurement Advice

5.2. Procurement advice to inform joint commissioning has been taken from:

- NHS South of England Procurement Services (working with North West London Commissioning Support Unit (NWL CSU))
- Tri-borough Children's Services Procurement Team

5.3. In line with procurement advice, speech and language services will therefore be tendered during 2015-17 to dovetail with expiry of the extended SLAs in September 2017. As noted in section three, 18 months as a minimum is needed to effectively specify and procure speech and language therapy across three Local Authorities, three CCGs and to ensure adherence with the significantly changing expectations of the Children and Families Act as well as ensuring local governance processes are met.

6. PROPOSED PROCUREMENT APPROACH

6.1. Given the clear procurement advice, it is proposed that CCG and Local Authority commissioners agree to jointly re-commission and tender speech and language services within an 18 month timeframe i.e. by October 2016. The lead for this procurement will be NHS as they are the lead for joint commissioning.

6.2. In the interim extension period services will be purchased from the incumbent provider but on the understanding that a competitive procurement exercise will commence. This will allow sufficient time to develop a strong joint service specification and performance framework, which the incumbent provider will work to. This period will also be used to manage and warm the market, including carrying out accurate benchmarking.

6.3. An alternative option would be for the CCG, Education and Early Years to separately re-tender their respective speech and language services. This is not recommended as it would fragment local resources and provision, would fail to achieve economies of scale and would not fulfill the joint commissioning requirements of the Children and Families Act 2014.

6.4. The table below shows an outline of activity to be completed.

Table 1: Procurement Activity

Tasks
<ul style="list-style-type: none"> • Develop 'joint' SALT service specification and performance framework • Issue SLA variation for above so incumbent provider (CLCH) can begin implementation of new model / requirements • Analyse and evaluate SALT market • Undertake benchmarking
<ul style="list-style-type: none"> • Issue formal notice to CLCH (that will be undertaking a competitive tender)
<ul style="list-style-type: none"> • Issue NHS/LA Section 75 agreement for joint commissioning of SALT • Begin market warming activities
<ul style="list-style-type: none"> • Start procurement exercise (allow 9 months for end to end process) • Write advert • Release advert • Issue PPG • Evaluate PPG • Chose bidder to go forward to ITT
<ul style="list-style-type: none"> • Award contract to successful SALT provider
<ul style="list-style-type: none"> • Implementation phase – including any TUPE considerations
<ul style="list-style-type: none"> • New service starts delivery

7. OPTIONS AND ANALYSIS OF OPTIONS

Paediatric Speech and Language Market

- 7.1. Locally there is a strong NHS orientated market with a number of large organisations supplying paediatric therapies including speech and language therapy to the CCG, schools and hospitals. These providers include acute hospitals such as Imperial College Healthcare NHS Trust and Chelsea & Westminster NHS Foundation Trust.
- 7.2. Locally the main provider of paediatric speech and language services across the three boroughs is the Central London Community Health Care NHS Trust (CLCH) however; there are other local community health providers, such as Central and North West London NHS Trust (CNWL), who also provide paediatric speech and language therapy in London. In addition there is a plethora of private health providers, ranging from individual self-employed therapists to private paediatric hospitals such as the Portland. Lastly there are also private sector companies who are steadily increasing their delivery of health services across the United Kingdom, including the behemoths, Virgin and Serco.
- 7.3. The changing funding arrangements for schools and the development of personal budgets for users may also further develop the therapies market locally.

- 7.4. In preparation for the tender exercise work will be carried out to “warm” the Speech and language market to ensure provider interest in a procurement exercise.

8. BENCHMARKING

- 8.1. It is challenging to assemble comparable performance data on paediatric speech and language as services, which are often delivered by separate NHS providers and funded by a variety CCG and LA commissioners. Work, however, will be undertaken to understand and where possible analyse models of delivery and comparable performance across London. Additionally, updating the service specification and performance requirements will improve focus on outcomes, costs, value for money and effectiveness. In taking forward the service specification the Local Authority will draw on the ‘Better Communication Guidance’ (DfE, December 2012).

9. CONSULTATION

- 9.1. A three-borough Speech Language and Communication Commissioning Group was convened in July 2013 and has met (bi-monthly) to progress the joint commissioning project. Stakeholders include; Children's Joint Commissioners, CLCH (service provider), Head Teachers, Education and Early Years Commissioners, CCG officers and a CCG Patient Representative. The group works to an agreed Action Plan and Project Brief and has had both Education and Early Years task groups.
- 9.2. Parents and carers have been engaged through the Children and Families Act ‘Local Offer’ co-production work stream. Co-production began at the end of January 2014 at the Children and Families Act launch event and has continued through six borough specific workshops. Specific feedback on speech and language has been collected which will be used to understand fully parent/carer priorities.

10. EQUALITY IMPLICATIONS

- 10.1. A Speech, Language & Communication Commissioning Group made up of key stakeholders including health, Local Authority, Schools, Commissioners and a parent patient representative have been meeting since 2013. This group has oversight of current contracts performance, as well as leading on the future commissioning intentions. At these meetings, as well as through quarterly monitoring meetings, performance of the current contracts has been monitored and CLCH are meeting their contractual targets. This practice will continue during the extension period to ensure the needs of children and families are met.

- 10.2. Commissioning officers are holding contract monitoring meetings for the early years contracts which cover the performance information for three boroughs to try and align monitoring requirements and ensure that the Local Authority is tracking outcomes for all users. This information will be used in developing the future commissioning strategy and identify specific requirements for delivery.
- 10.3. Similarly, for the Education services officers have just completed a consultation exercise with borough parents reviewing the local offer to inform the new specification and other aspects of service provision. There is on-going consultation with parent/carer representatives through the Parent Reference Group.
- 10.4. An equality impact assessment will be conducted following the development of detailed service specifications, and a full assessment will be developed as part of the commissioning of new service arrangements.

11. LEGAL IMPLICATIONS

- 11.1. As there is a duty on the Council to deliver the above referred speech and language therapy services, there is reasonable justification to waive the Contract Standing Orders to approve to extend the SLT contract with the current provider as proposed so as not to default on our duties while the procurement is being undertaken. Being a Part B service under the Public Contracts Regulations, the chances of challenge are remote and in any case there are mitigating circumstances as the proposed extensions is for an interim period while a full scale procurement exercise is undertaken.
- 11.2 Implications verified/completed by: Babul Mukherjee- Solicitor (Contracts), Bi-borough Legal Services-Tel: 020 7361 3410.

12. FINANCIAL AND RESOURCES IMPLICATIONS

- 12.1 Comments are in the separate report on the exempt cabinet agenda.
- 12.3 Implications verified/completed by: Tony Burton - Lead Business Partner, Children's Services. Telephone: 020 7641 2462.

13. RISK MANAGEMENT

- 13.1 There is a duty to provide the service and the duty is noted on the corporate Tri-borough risk register as managing statutory duty, risk number 8, compliance with laws and regulations. Extension of the existing contract also provides important continuity of service for the

period leading up to the completion of the procurement exercise; this is in compliance with corporate risk number 6 on the Tri-borough risk register.

- 13.2 The procurement also contributes positively to the management of risk 1; managing budgets and risk number 4 market testing risks, delivering high quality commissioned services at the best cost to the taxpayer. Working with the CLCH and NHS together with Tri-borough councils is an opportunity risk and potential benefits arising from the joint exercise contribute locally to the Council in accordance with preserving the reputation of the Council risk, meeting the public needs and expectations. Where there are information risks associated with a potential new service provider these should be identified through the completion of a privacy impact assessment.
- 13.3 Implications verified by: Michael Sloniowski, Tri-borough Risk Manager
Telephone: 020 8753 2587.

14. PROCUREMENT AND IT STRATEGY IMPLICATIONS

- 14.1 The existing arrangements for provision of speech and language therapy services are due to expire on 31st March 2015. Normally, a competitive tendering exercise would be run to procure a new contract. However, for reasons explained in the report, neither the Council nor the NHS Clinical Commission Group currently have the certainty and clarity about the future delivery model required to run an efficient procurement. Speech and language therapy (SLT) services are a statutory requirement, and service continuity therefore essential.
- 14.2 SLT services are currently defined as being “Part B” under the Public Contract Regulations 2006 (as amended) and not therefore subject to the full mandatory regulated procurement regime that services defined as “Part A” are. Nonetheless, the principles of transparency and fairness still apply when procuring Part B services, including the continuation of existing arrangements beyond their contractual expiry date.
- 14.3. Waivers to the Council’s Contracts Standing Orders are permitted under section 3.1 where these are agreed by the appropriate persons – in this case Cabinet – as they believe the waiver is justified; for instance, it is in the interests of the Council (and in this case vulnerable service users) to do so.
- 14.4 The risk of possible challenge from another service provider to a continuation of the existing arrangement with Central London Community Healthcare NHS Trust is considered slight, but nonetheless exists. This would be mitigated by the placing of an indicative notice stating the Councils’ and NHS Clinical Commissioning Groups’ intention to run a competitive tendering exercise in 2015-16; it would also support pre-procurement dialogue between commissioners and potential

providers on how to optimise quality for service users and value for money for the commissioning bodies in the new contract.

- 14.5 Whilst the existing arrangements remain in place, Commissioners should continue to seek service and efficiency improvements from the current provider for the duration of the contract, in line with the Council's contracts review programme.
- 14.6 The Director of Procurement & IT Strategy supports the report's recommendations.
- 14.7 Implications completed by: John Francis, Principal Consultant, H&F Corporate Procurement Team, FCS. Telephone: 02087532582

LOCAL GOVERNMENT ACT 2000

LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	CAB Report – Joint Commissioning and Procurement for Speech and Language – August 2014 (published)		CHS