



## Mayor and Cabinet

### COVID-19 Related Extensions by Directorate Report

**Date:** 24<sup>th</sup> March 2021

**Key decision:** Yes, Three Key Decisions.

**Class:** Part 1.

**Ward(s) affected:** All.

**Contributors:** Procurement Team, Legal Team and Various Stakeholders: -

Richard Marks and Caroline Hirst, CYP Joint Commissioning (The Ravensbourne Project)

Emily Newell and Catherine Bunten, CYP Joint Commissioning (The Health Visiting and School Health Service)

David McCollum and Catherine Bunten, CYP Joint Commissioning (Children and Family Centres)

## **Outline and recommendations**

COVID-19 has created exceptional circumstances and has affected numerous procurements and contracts. Regulation 72 of the Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 allows contracting authorities to modify contracts during their term provided that certain criteria has been met. One such criteria is that contracts may be modified where this has been brought about by circumstances which a diligent contracting authority could not have foreseen. This supports unforeseen circumstances such as COVID-19. In order to authorise any changes to a contract, a report must be written detailing the circumstances and providing an explanation as to why the change is required as well as explicitly detailing how COVID-19 has specifically affected the contract in question.

This report includes requests for the approval of COVID-19 related contract variations / extensions as set out in the table and appendices in this report.

It is recommended that each contract is discussed and approved on an individual basis, taking into account the unique circumstances of COVID-19.

## Timeline of engagement and decision-making

This report recommends the approval of the following COVID-19 related contract extensions:

### **Ravensbourne Project - Specialist Short Breaks – overnight, holiday and weekends services**

- Extension of twelve months from 1st September 2021 to 31st August 2022, costing £630,000

### **Health Visiting and School Health – 0-19 Public Health Nursing Service**

- Extension of twelve months from 1st April 2022 to 31st March 2023, at a cost of £6,949,489. This is fully funded by the Public Health Grant.

### **Children and Family Centres – Early Years Alliance, Kelvin Grove and Elliot Bank, Donderry**

- Extension of Early Years Alliance (previously known as Pre School Learning Alliance) for a period of 12 months from 1st April 2022 to 31st March 2023 at a cost of £1.3m
- Donderry School for a period of 12 months from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 at a cost of £0.2m
- Elliot Bank and Kelvin Grove for a period of 12 months from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 at a cost of £0.17m
- The total cost of the extensions is £1.67m.

### Summary

- 1.1. As a consequence of the ongoing COVID-19 pandemic, some contracts may require some form of contract variation or contract extension. Contracts requiring action must provide sufficient reasoning for requiring a variation/extension and this should clearly highlight the influence of COVID-19 on the service/contract in question.
- 1.2. This report covers three such contracts, which all need extension, largely because of constraints on Council officer capacity in this period, or similar impacts on the capacity of key partners whose input is required in consultation or service redesign.
- 1.3. A set of eight classifications has been created to aid differentiation of contract circumstances in relation to COVID-19 (see Table in Summary Section 4). The appendices attached set out which classification they fall within and the rationale for the extension/variation. The contracts must be discussed and approved on an individual basis as specific circumstances must be considered in each case.
- 1.4. The appendices of this report contain templates including: **Appendix A list of contracts requiring variation/extension by directorate and Appendix B1-B3.**
- 1.5. Each appendix attached includes legal implications specific to that particular contract and the recommendation within it. Each appendix should be considered individually.

### Recommendations

This report recommends that Mayor and Cabinet approves extension of the following contracts:

- 1.6. **Ravensbourne Project - Specialist Short Breaks – overnight, holiday and weekends services**

- Extension of twelve months from 1<sup>st</sup> September 2021 to 31<sup>st</sup> August 2022, costing £630,000

#### 1.7. **Health Visiting and School Health – 0-19 Public Health Nursing Service**

- Extension of twelve months from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023, at a cost of £6,949,489. This is fully funded by the Public Health Grant.

#### 1.8. **Children Centres – Early Years Alliance, Kelvin Grove and Elliot Bank, Donderry**

- Extension of Early Years Alliance (Pre School Learning Alliance ) for a period of 12 months from 1st April 2022 to 31st March 2023 at a cost of £1.3m
- Donderry School for a period of 12 months from 1st April 2022 to 31st March 2023 at a cost of £0.2m
- Eliot Bank and Kelvin Grove for a period of 12 months from 1st April 2022 to 31st March 2023 at a cost of £0.17m
- The total cost of the extensions is £1.67m

#### Policy Context

- 1.9. COVID-19 has created exceptional circumstances and has affected numerous procurements.
- 1.10. The procurement of Children and Young People’s Services is influenced by a range of National and Local Act(s) and Guidance(s), which outline the requirements and duties of the Local Authority and CCG, in the delivery of comprehensive offer that meets the need of the local population. These include:

#### National Policies

- The Crime and Disorder Act 1998
- SEN Code of Practice
- NHS Long Term Plan

#### Local Policies

- Corporate Strategy 2018/22
  - **Open Lewisham** – a place of safety for all
  - **Tackling the housing Crisis** – everyone has a decent home that is secure and affordable
  - **Giving children and young people the best start in life** – every child has access to an outstanding and inspiring education and given the support they need to keep them safe, well and able to achieve their full potential
  - **Delivery and defending: health, social care and support** – ensuring everyone receives the health, mental health, social care and support services they need
  - **Building safer communities** – every resident feels safe and secure living here as we work together towards a borough free from the fear of crime
- Lewisham Health and Wellbeing Strategy 2013/23
- Early Help Strategy (draft)
- Transition to Adulthood Strategy (draft)
- SEND Strategy

#### Background

- 1.11. This report presents current procurements and contracts which have been affected by the ongoing challenges presented by COVID-19, highlighting contracts which require variations/ extensions resulting from issues associated with COVID-19.
- 1.12. The COVID-19 pandemic has had enormous impacts across a range of services.

Providers in the health and care sector are currently dealing with significant challenges in managing the response to the pandemic. As such they are not in a position to engage with procurement processes.

- 1.13. The COVID-19 pandemic has created extenuating circumstances and has consequentially altered the way in which service delivery of some contracts occur. As a result, some contracts may require variations/extensions in order to continue to carry out service delivery, or provide feasible changes to occur to enable procurements to take place.
- 1.14. A classification system has been designed and applied to these contracts, highlighting the current status of each individual contract and applicable extension circumstances. The eight classification typologies can be seen in **Table 1** below. These classifications are useful in highlighting the circumstances of each contract and aid the identification of any actions needed to facilitate variations/extensions or M&C papers, as appropriate.
- 1.15. The contracts described in this report fall in to Categories A, B and C.

Classification Type	Details
A	Time elapsed to undertake full procurement, contract extension/variation needed
B	Currently unfavourable market conditions necessitate contract extension/variation
C	Extension/variation required but permissible extensions have been exhausted
D	Extension/variation required (specific issues)
E	Contract permitted extension(s)
F	No extension needed, service due to end
G	Procurement planning currently underway but new service not expected to be in place within 12 months
H	Procurement planning currently underway and new service to be in place within 12 months

#### COVID-19 Contract Extension Information and Governance Procedures

- 1.16. Regulation 72 supports unforeseen circumstances such as COVID-19. In order to authorise any changes to a contract, a report must be written detailing the circumstances and providing an explanation as to why the change is required as well as explicitly detailing how COVID-19 has specifically affected the contract in question. The attached appendices detail the specific reasons for each contract as to how COVID-19 has impacted on the contract.
- 1.17. In order to facilitate contract extensions the Services must be prepared to undertake actions in a timely manner. Contracts may need to be extended for several reasons including:
  - Needing an extension and having the legal ability to undertake legitimate extensions
  - Having legal issues/challenges and therefore needing to be extended
  - Needing extension due to genuinely unforeseen circumstances
- 1.18. The paragraphs below and the appendices (completed reports) attached to this report clearly set out why modifications are required to the three contracts and how COVID-19 has affected those services.
- 1.19. **Ravensbourne Project - Specialist Short Breaks: Overnight, holiday and weekends services**

- 1.19.1. The Ravensbourne Project is a Lewisham based charity, located in Catford. This provision is for children and young people with a disability and whose families have the highest level of need and through having regular breaks from their caring responsibilities, enabling parents to spend dedicated time with their other children.
- 1.19.2. It provides three types of provision: overnight short break (respite care); 13 weeks of day-time school holiday; and weekend play-scheme provision for children and young people aged 5 to 18 with a range of physical and learning disabilities, including autism.
- 1.19.3. This contract enables the Council to meet its statutory obligations to provide support to a child's assessed needs as stated in the child's individual: Child In Need Plan / Child Protection Plan / Education, Health and Care Plan.
- 1.19.4. Due to the impact of Covid-19, consultation and market engagement activities that are central to the tender process have not been possible to undertake at this time. At the time of the first lockdown, the Commissioner was redeployed for six months to manage the Children With Disabilities Service. Following the commissioner's return to the CYP Commissioning Team, consultation with internal stakeholders has happened. However, as other areas of work were prioritised, external consultation and market engagement have not been undertaken.
- 1.19.5. Despite the numerous impacts of the Covid-19 pandemic, The Ravensbourne Project responded quickly and innovatively to the pandemic. This included providing telephone support to families; identifying the children and young people known to them who may be more vulnerable and having regular contact with them in order to provide and signpost to support.
- 1.19.6. The provider has continued to offer a full service. In order to ensure it was able to be fully operational, Ravensbourne undertook the following:
- The entire staff group went into self-isolation when not at work some weeks prior to the first lockdown;
  - Throughout all lockdown periods, undertook welfare calls to all families on at least a weekly basis;
  - Where a parent was anxious to send their child to Ravensbourne, the manager undertook a home visit to reassure the parent in person;
  - Delivered food parcels to families that were having difficulty in obtaining food or were experiencing food poverty.
- 1.19.7. Through their continued support, this has means children will be able to experience a level of consistency throughout the various lockdowns, whilst much of the rest of their daily routines have been disrupted and become unfamiliar.
- 1.19.8. The extension of this contract with The Ravensbourne Project will allow for continued service provision and delivery of vital support for children and families across the Borough, whilst a robust re-procurement can be put into motion.

## 1.20. **Health Visiting and School Health – 0-19 Public Health Nursing Service**

- 1.20.1. The initial timeline to deliver a new contract by March 2022 aimed to begin a consultation process in January 2021, with the redesign of specifications alongside our Early Help and Prevention programme and strategy, followed by the launch of an ITT in Summer 2021. This however was delayed and will be difficult to achieve without gaining contract extensions for these services for the following reasons:
- The impact of Covid-19 on relevant stakeholders makes this timescale less viable. Relevant stakeholders have significantly less capacity to engage in the consultation and redesign that is due to be taking place now ahead of the tender process, and less capacity to engage in an ITT when it is launched.
  - Similar re-commissioning processes of 0-19 service contracts across London

have attracted very few bidders during the Covid-19 period. The previous competitive tender process had only two bidders, and so there is a risk that the market would be small.

- The planned public consultation to support service redesign was delayed in January 2021 due the discussions about Councils cuts which were required for the following financial year. Now that this cut has been agreed, public consultation is not possible due to the pre-election period. It would still be possible to undertake this consultation after the elections, however this would mean that the procurement process is very tight, and would leave little slippage in terms of completing a full consultation and implementing the findings from this. We need to ensure the consultation process is robust due to the size and length of the new contract, and sensitivity around the budget reduction made this year and planned to be made through this procurement.

In addition:

- This contract is a core part of the early intervention offer for children and families in Lewisham. Having more time to pilot and develop Family Hubs approach, and embed the new Early Help system, would be beneficial before agreeing a new and lengthy contract.
- A process of transformation and service development with the current provider has re-started following the Covid-19 pandemic. These developments will continue throughout the extension period, ensuring that the service is continually improving for families in Lewisham. The extension period will provide the time for proposed service developments to be tested and evaluated for possible inclusion in a future service specification.

1.20.2. The twelve month extension of this contract with Lewisham and Greenwich NHS Trust would enable sustained service delivery of both health visiting and school health services within Lewisham.

#### 1.21. **Children Centres – Early Years Alliance, Kelvin Grove and Elliot Bank, Donderry**

1.21.1. The initial timeline to deliver a new contract by March 2022 aimed to begin a consultation process in January 2021, redesign the specifications alongside our Early Help and Prevention programme and strategy, and specifically our Health Visiting service, and launch an ITT in Summer 2021. This timeline has been delayed and will be difficult to achieve for the following reasons:

- The impact of Covid-19 on officer time makes this timescale less viable. The commissioning service have had significantly less capacity to engage in the consultation and redesign that is needed for this service.
- Similar pressures across the sector mean that there is a significant risk that the market would be small, and there has been no capacity to develop the local market over the last 12 months. The local VCS would be potential providers of some elements of Children's Centre services.
- The planned public consultation to support service redesign is not possible due to Purdah. It would still be possible to undertake this consultation after the elections, however this would mean that the procurement process is very tight, and would leave little slippage in terms of completing a full consultation and implementing the findings from this. We need to ensure the consultation process is robust due to the size and length of the new contract, and sensitivity around the budget reduction made this year and planned to be made through this procurement.

In addition:

- This contract is a core part of the early intervention offer for children and families in Lewisham. Having more time to pilot and develop Family Hubs approach, and embed the new Early Help system, would be beneficial before agreeing a new and lengthy contract.
- A process of service development and change has begun with the providers following the Covid-19 pandemic and the cuts applied to the last year of the service. These developments will continue throughout the extension period, ensuring that the service is continually improving for families in Lewisham. The extension period will provide the time for proposed service developments to be tested and evaluated against the developing internal Early Help provision to inform any future service specification.
- Having longer to embed our internal services will provide a fuller opportunity for the consideration of different delivery models, including insourcing, in the future.

1.21.2. The service has adapted quickly and effectively, providing extensive virtual delivery of support for families and children and young people; including evidence based programmes, and becoming part of the partnership response to family support during the pandemic.

Allowing a twelve month extension on each of the three sub-contracts (Early Years Alliance, Donderry, Eliot Bank and Kelvin Grove) would allow continued service delivery for essential school centres within the Borough, whilst a robust re-prourement can be put into motion.

Financial Implications

#### 1.22. **Ravensbourne Project - Specialist Short Breaks: Overnight, holiday and weekends services**

1.22.1. This report recommends that Mayor and Cabinet authorise officers to extend the contract for Specialist Short Breaks services with The Ravensbourne Project for a period of twelve months from 1st September 2021 to 31st August 2022 at a cost of £630,000.

1.22.2. This twelve month extension will take the total contract value to £3,150,000.

1.22.3. As the contract value remains at the current contract this can be met from within existing resources. The budget for Ravensbourne Project for 2021/22 will be £630,000.

#### 1.23. **Health Visiting and School Health – 0-19 Public Health Nursing Service**

1.23.1. This report recommends that Mayor and Cabinet authorise officers to extend the contract for the 0-19 Public Health Nursing Service with Lewisham and Greenwich NHS Trust for twelve months from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 at a cost of £6,949,489.

1.23.2. The cost of £6,949,489 covers the delivery of both the Health Visiting and School Health Service. This is fully funded by the Public Health Grant.

#### 1.24. **Children Centres – Early Years Alliance, Kelvin Grove and Elliot Bank, Donderry**

1.24.1. This report recommends that Mayor and Cabinet authorise officers to extend the contracts for Children and Family Centres as follows:

- Early Years Alliance for a period of 12 months from 1st April 2022 to 31st March 2023 at a cost of £1.3m
- Donderry School for a period of 12 months from 1st April 2022 to 31st March 2023 at a cost of £0.2m



- Eliot Bank and Kelvin Grove for a period of 12 months from 1st April 2022 to 31st March 2023 at a cost of £0.17m

1.24.2. The total cost of the three extensions is £1.67m.

1.24.3. There are no additional financial pressures arising from the actions recommend in this report.

#### Legal implications

- 1.25. Each appendix attached includes legal implications specific to that particular contract and the recommendation within it. Each appendix should therefore be considered individually.
- 1.26. In taking these decisions, the Council's public sector equality duty must be taken into account. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.
- 1.27. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for Mayor and Cabinet, bearing in mind the issues of relevance and proportionality. Mayor and Cabinet must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 1.28. The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found on the EHRC website.

#### Equalities implications

- 1.29. These would need to be considered either specifically for each contract extension, where relevant to ensure that the decision maker had all relevant decision upon which to base the decision.

#### Climate change and environmental implications

- 1.30. These would need to be considered either specifically for each contract extension, where relevant to ensure that the decision maker had all relevant decision upon which to base the decision.

#### Crime and disorder implications

- 1.31. These would need to be considered either specifically for each contract extension, where relevant to ensure that the decision maker had all relevant decision upon which to base the decision.

### Health and wellbeing implications

- 1.32. These would need to be considered either specifically for each contract extension, where relevant to ensure that the decision maker had all relevant decision upon which to base the decision.

### Report author and contact

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### Comments for and on behalf of the Director of Law, Governance and HR

- 1.34. Stephanie Fleck (Principal Lawyer) (JZW) [stephanie.fleck@lewisham.gov.uk](mailto:stephanie.fleck@lewisham.gov.uk)

### Appendices

- 1.35. **Appendix A – COVID-19 List of Requested Contract Extensions**



Appendix A  
COVID-19 Related Co

### **Appendix B – COVID-19 Contract Extension Reports**

- **Appendix B.1: Ravensbourne Project - Specialist Short Breaks – overnight, holiday and weekends services**



Appendix B 1  
Ravensbourne 11 03 ;

- **Appendix B.2: Health Visiting and School Health – 0-19 Public Health Nursing Service**



Appendix B2 Health V  
and School Health 15

- **Appendix B.3: Children Centres – Early Years Alliance, Kelvin Grove and Elliot Bank, Downderry**



Appendix B 3  
Children and Family C