

**Democracy Services**  
London Borough of Merton  
Merton Civic Centre  
London Road  
Morden SM4 5DX

*Direct Line:* 0208 545 3557

*Date:* 20 March 2025

Dear Councillor

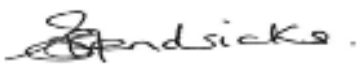
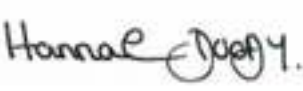

Notification of a Decision taken by the **Chief Executive**

The attached **Key decision** has been taken with regards to **Short breaks for children and young people with disabilities** and will be implemented at **noon** on **Tuesday 25<sup>th</sup> March** unless a call-in request is received.

The call-in form is attached for your use if needed and refers to the relevant sections of the Constitution.

Yours sincerely

**Democracy Services**

<b>Name of decision-maker</b> Chief Executive	<b>DATE</b> 20.03.2025
<b>REPORT/DECISION TITLE</b> Short breaks for children and young people with disabilities	<b>WARD(S)</b> All wards
<b>CHIEF OFFICER</b> Bev Hendricks Executive Director of Children, Lifelong Learning and Families   Signed..... Date: 06.03.2025	<b>CABINET/LEAD MEMBER</b> Councillor Usaama Kaweesa Cabinet Member for Children's Services
<b>CHIEF EXECUTIVE</b> Hannah Doody Chief Executive of London Borough of Merton   Signed Date: 06.03.2025	<b>EXECUTIVE DIRECTOR OF FINANCE AND DIGITAL</b> Asad Mushtaq Executive Director of Finance & Digital   Signed..... Date: 18.02.2025
<b>DECISION CLASSIFICATION</b> Key	The final decision on this report will be made by the Chief Executive.

### Procurement Details Summary

<b>Contract Manager (Name and Title)</b>	Karthiga Sivaneson Senior Commissioning Manager
<b>Name and description of Contract</b>	Provision of a Saturday, evening and holiday short breaks offer for children and young people with disabilities.  Co-ordinator support to Kids First, Merton's SEND Parent and Carer Forum.
<b>Is the Contracts for Goods/Works/Services that are a Statutory Requirement?</b>	Yes, they are for a statutory service.

<b>Value of Existing Contract (excluding VAT)</b>	£1,508,000
<b>Rate of applicable VAT</b>	0%
<b>Start and End Dates of Existing Contract</b>	1 <sup>st</sup> April 2017 to 31 <sup>st</sup> March 2025
<b>Estimated Value of Extension/Variation:</b>	£223,200 (VAT 0%) Total contract value including proposed variation/extension: £1,731,200
<b>Length of envisaged extension and new start date</b>	1-year extension from 1 <sup>st</sup> April 2025 until 31 <sup>st</sup> March 2026.
<b>Please provide the outcome of a credit check for the supplier, carried out within one month of the date on this report:</b>	Credit Check carried out on 31/1/2025 and recommended single contract value is £120,000. Accounts and other financial information held at Companies House also reviewed and is considered good. Recommendation to have a staggered payment schedule or payment in arrears to manage risk.
<b>Does the current provider pay staff working on the Merton contract London Living Wage (LLW) or above?</b>  <b>If not, why or when will the supplier pay LLW?</b>	Yes, Merton Mencap pays staff the LLW.

## 1. Recommendations:

- 1.1 To approve a variation of contract to allow a 1-year contract extension for delivery of short break services to children and young people with disabilities and support to Merton's SEND Parent and Carer Forum. The extension term will cover the period 1<sup>st</sup> April 2025 to 31<sup>st</sup> March 2026 and be £223,200.
- 1.2 To note that the contract started in 2017 and there have been two previous additional contract extensions granted to cover the period 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2025. The total contract value for the 8-year period plus the recommended 1-year extension will be £1,731,200.

## 2. Purpose of Report and Executive Summary

- 2.1 This report is being presented to approve a variation of contract to allow a further extension to Merton Mencap for delivery of the following services:
  - provision of a Saturday, evening and holiday short breaks offer for children and young people with disabilities;
  - co-ordinator support to Kids First, who are Merton's SEND Parent and Carer Forum and ensure that parental voice influences the planning and delivery of services for children with disabilities and their families.

- 2.2 The term short breaks describes the social, care, play and leisure opportunities children with disabilities participate in when they are not in an education setting. All Councils have a duty to provide short breaks under Schedule 2 (Section 6) of the Children's Act 1989 and the Breaks for Carers of Disabled Children Regulations 2011.
- 2.3 Kids First are Merton's recognised SEND Parent and Carer Forum. The Forum is funded by the Department for Education (DfE) parent carer participation grant at an annual value of £17,500. In addition, Merton Council makes a financial contribution to support their participation work through funding Merton Mencap to manage a forum co-ordinator post.
- 2.4 The contract with Merton Mencap covers the 8-year period from 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2025. This period includes two contract extensions (via variation) agreed to cover the 3-year period from 1<sup>st</sup> April 2022.
- 2.5 The total value of the contract since its commencement is £1,508,000. The recommendation in this report to extend for a 1-year period will increase the value of the contract by an additional £223,200 to £1,731,200. Children Lifelong Learning and Families (CLLF) are making the further extension request until 31<sup>st</sup> March 2026 to allow for the recommissioning decision on this contract to be considered within CLLF's agreed strategic approach and be part of a wider set of changes and a larger competitive tender exercise that has been informed by two phases of stakeholder engagement. The short break services provided by Merton Mencap are vital to families having to care for children with disabilities. The recommendation in this paper will ensure service continuity until the new offer and processes are in place for 1<sup>st</sup> April 2026.
- 2.6 CLLF officers are also progressing arrangements for the Council's financial contribution to SEND parent participation work from 1<sup>st</sup> April 2026.

### **3. Links to the Merton Priorities (Borough of Sport/Civic Pride/Sustainable Futures)**

- 3.1 This report relates to the Council's Strategic priorities as follows:
- Reducing inequalities and disadvantages by ensuring that children with disabilities and their families can access community services just like all other children and families. This supports their health and wellbeing by enabling them to socialise, have fun, and increase their independence and confidence. This access also contributes to parents' wellbeing by giving them a break from caring and reduces their isolation by providing network opportunities with other families.

### **4. Introduction and Background**

- 4.1 Short breaks are hugely beneficial to families as they give children and young people with disabilities the chance to take part in activities and develop new interests, skills, and relationships whilst giving their parents a break from their caring responsibilities. The majority of Merton children and young people with disabilities and their families use the same universal services as all families for their social, play and leisure activities. Those who need more support use targeted services or access a more

specialist support package following a Child and Family Assessment by the Council's Children with Disabilities (CWD) Team. CLLF directly delivers short break services, procures organisations to deliver these services and also offers families a Direct Payment option to make their own arrangements to secure these services.

- 4.2 The Merton Mencap contract supports approximately 115 children at the targeted level (1:3 or 1:4 staffing ratio) and approximately 29 at the specialist level (1:1 or 1:2 staffing ratio). It covers delivery of holiday and Saturday activities for children and young people with disabilities aged 5 to 18, with a small evening offer that extends up to the age of 24. The target hours for delivery are between 10,074 to 12,474 per annum. It operates from Perseid and Cricket Green Special Schools, as well as out in community settings.
- 4.3 Quarterly and annual short break monitoring returns show that the provider delivers their agreed outputs and can evidence parental and children and young people satisfaction with the short breaks offer. There is over demand for this service, which CLLF are aiming to address through the review work that is in progress. Merton Mencap also meet CLLF's agreed expectations for the forum co-ordinator role, in addition to the annual monitoring forms they complete to the DfE to evidence outputs and outcomes from the parent participation grant funding.
- 4.4 The Merton Mencap contract commenced on 1<sup>st</sup> April 2017 for a term of 5 years. There have been two extension periods granted to this contract to date under Regulation 72 of the Public Contract Regulations 2015. The first was agreed so the end date of 31<sup>st</sup> March 2024 would align with community service contracts commissioned by the Integrated Commissioning Board, with the aim of ultimately achieving an integrated offer across both organisations. The second extension to 31<sup>st</sup> March 2025 was agreed to allow time for CLLF officers to complete a short breaks service review, which would then inform the specifications for the future procurement exercise.
- 4.5 CLLF are now requesting a further extension. This is in response to the findings of the review work that identified the need to take a strategic approach to this service area, consideration of the learning from other LAs about their short break offers, and the feedback from stakeholder engagement.
- 4.6 CLLF held a first stage consultation with stakeholders during the July to September 2024 period. This was to obtain views on the current offer and hear suggestions for change. Feedback was critical of how short breaks were publicised, assessed and delivered as well as of the range and volume of the offer. It also highlighted provision gaps for some cohorts of children. Of the few positive comments received, many related to the short break services provided by Merton Mencap.
- 4.7 A second stage consultation was held from 4th November to 1st December 2024 on a set of proposed changes to the offer. These changes included:
  - i) removing the assessment process at a targeted level and using the funding from the staffing resource to commission new provision;

- ii) changing the delivery model at a targeted level by removing the option of direct payments and replacing with more commissioned providers;
- iii) introducing a charge for activities and using the income to increase the volume of the offer;
- iv) improved co-ordination and planning of the various services within CLLF, as well as wider in the Council, who provide out of school activities for children with disabilities.

4.8 Decisions on these proposals were taken through CLLF’s governance processes in January 2025. There is now agreement on the new short breaks model, which will involve a whole system change. Officers are now working towards implementation, and developing timeframes around communicating, preparing and supporting families with the transition of their support packages. There is also planning around the formal staff consultation processes for the staff members impacted by the changes to the model.

4.9 CLLF are therefore requesting a further extension of the Merton Mencap contract to cover the period 1st April 2025 until 31st March 2026 at a value of £233,300. The decision to maintain service delivery until March 2026 on a strictly ‘as is’ basis (nature, content etc) means that Regulation 72 (1) (e) PCR 2015 can provide a means by which to compliantly further extend the contract.

## 5. Available Options

5.1 An appraisal of the four options considered as an alternative to the recommended option in this report for a 1-year extension is set out below.

Option	Advantages	Disadvantages
<p><b>Option 1</b></p> <p>End the contract with Merton Mencap on 31<sup>st</sup> March 2025 and withdraw the service.</p> <p><b>This is not the recommended option.</b></p>	<p>It would result in a saving to the Council of £223,200.</p> <p>It would negate the need for commissioning, procurement and monitoring resources by the LA in this service area.</p>	<p>It would result in unmet need as 144 children currently access a short break from Merton Mencap.</p> <p>Benchmarking with other LAs highlights that Merton’s targeted short breaks offer is currently one of the least generous and consultation with parents highlighted that many feel the offer is insufficient to meet their families’ needs. Option 1 would further reduce Merton’s short breaks offer.</p> <p>Reducing short breaks support would potentially increase demand for social care assessments and more</p>

		<p>expensive specialist packages of care.</p> <p>It would potentially open the Council to legal challenge and reputational risk of cutting services and being non-compliant with statutory duty.</p> <p>The Kids First Steering Group would be insufficiently supported to effectively contribute to the planning and development of services for children with disabilities and their families.</p>
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<p><b>Option 2</b></p> <p>Make a Direct Award to Merton Mencap from 1<sup>st</sup> April 2025 for the continued delivery of a short breaks offer and support to Merton's SEND Parent and Carer Forum.</p> <p><b>This is not the recommended option</b></p>	<p>There would be continuity of service delivery by a known provider with a proven record of delivery and who had the trust and confidence of families.</p> <p>The Council would continue to meet their statutory duty in this service area.</p> <p>It would secure a provider in a market that was limited and specialist.</p> <p>It would negate the need to go through a lengthy tender process.</p>	<p>Although limited, there are alternative providers, and therefore the market should be tested.</p> <p>The outcome of the service review will bring changes to the assessment and booking processes, introduce charges, as well as result in more commissioned providers from 1<sup>st</sup> April 2026. The details of the changes are still being worked through. Therefore, they could not form part of a revised service specification for Merton Mencap in April 2025, which would be needed to ensure that they were working in a co-ordinated way with commissioners, parents and other commissioned providers.</p>
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<p><b>Option 3.</b></p> <p>Procure long term service delivery options from 1<sup>st</sup> April 2025.</p> <p><b>This is not the recommended option.</b></p>	<p>Children would continue to receive a short break offer and the Council would continue to meet their statutory duty in this service area.</p> <p>It would be a fair process, and the Council would have tested the market and pricing.</p>	<p>The need for a strategic look at this service area has delayed the original timeframe of being able to go live with a revised short break offer on 1<sup>st</sup> April 2025. There is now insufficient time to progress either a procurement exercise or in-house offer prior to contract end date.</p>
<p><b>Option 4</b></p> <p>Commission to cover a 1-year period with an alternative provider/s.</p> <p><b>This is not the recommended option.</b></p>	<p>Children would continue to receive a short break offer and the Council would continue to meet their statutory duty in this service area.</p>	<p>At this time, the only realistic alternative commissioning approach to cover the service offer from 1<sup>st</sup> April 25 to 26<sup>th</sup> March 2026 is a spot purchase arrangement. However, this would not be a cost-effective model, would not provide the same assurances around quality of delivery, and the volume of support hours needed would be difficult to secure.</p> <p>This would be disruptive to families and require additional officer resource to transition support packages, at the same time as completing the longer-term commissioning piece.</p>
<p><b>Option 5</b></p> <p>Extend the current contract to allow sufficient time to undertake a full procurement</p> <p><b>This is the recommended option.</b></p>	<p>Set out in 6.1.</p>	<p>Set out in 6.1.</p>

## 6. Preferred Option

- 6.1 The preferred option is to request a further contract extension under Reg 72 (1) e. Although CLLF recognise the risk of challenge for seeking a third extension, this is



considered limited and is far outweighed by the benefits of this approach as set out below.

- I. There would be continuity of service delivery by a known provider with a proven record of delivery and who had the trust and confidence of families.
- II. The Council would continue to meet their statutory duty in this service area.
- III. The recommissioning decision on this service would be part of CLLF's wider strategic approach to short breaks. CLLF have agreed changes to assessment processes and the delivery model, improvements to joint working and funding across services, as well as introducing charging and an online booking system. Careful planning is needed around transition processes for families and impacted staff. The short break services delivered by Merton Mencap in this contract will be part of a larger competitive tender opportunity timetabled for the summer 25.
- IV. Building works on the Perseid School lower site to accommodate short breaks provision are due to complete partway through the Autumn term 2025. This renovated accommodation will be presented as an accommodation option for part of the recommissioned offer starting in April 2026.

6.2 Merton Mencap would continue with delivery of a short breaks offer and Co-Ordinator support as set out in their contract.

6.3 The value of the 1-year extension is £223,200, which is £17,200 more than the total current contract value of £206,000. The contract value has not increased in line with CPI. It has increased in value by 17% and an annual increase in line with CPI since April 2018 would have resulted in a 26.8% increase. The increase in contract value can also be attributed to the increase in complexity of children being referred to the service and therefore needing a higher staffing resource, as well as a staff training offer around support for this cohort of children. The provider is also using agency staff for contingency planning and cover due to recruitment challenges which are higher cost (£23.52 agency and £13.85 Merton Mencap). The provider is also having to cover the increased costs on venue hire, transport and cleaning. The higher contract value also has an allowance for the expected changes to the National Insurance employer's contribution rates and thresholds from April 2025.

6.4 CLLF consider that the increase in funding would still achieve a value for money service, as hourly costs would be approximately £13.80 for targeted group activities and £23.30 for specialist group activities. Funding for the 1-year extension will be met from within CLLF, cost centre 301700.

## **7. Reasons for Recommendations**

7.1 The contract extension will allow CLLF officers time to implement the recommendations from the Short Breaks Review and ensure that there is continuity of service to children with disabilities and their families in the April 25 to March 26 period. The services they provide are in high demand and vital to Merton's families. The contract will continue to be monitored by the CLLF commissioning team with input from early help and social care colleagues. It represents value for money with other contracts as benchmarking shows that the targeted hourly rate is at market value and the specialist hourly rate is below market value.

7.2 The short break services provided by Merton Mencap will form part of a larger procurement exercise scheduled to start in August 25. The SEND Parent Forum Co-ordinator role will not form part of this tender exercise. CLLF officers are also progressing arrangements for the Council's financial contribution to SEND parent participation work from 1<sup>st</sup> April 2026.

## 8. Consultation Results

- 8.1 Although there has not been specific consultation on the extension of the Merton Mencap contract, stakeholders did provide feedback on the service during the two phases of consultation held as part of the Short Breaks Review on the longer-term offer. Overall, the consultation responses were critical of the current offer and clearly outlined where changes and improvements were needed, however, the feedback on Merton Mencap was positive.
- 8.2 CLLF officers are continuing to have regular meetings with the SEND Parent Carer Forum Steering Group to ensure there is co-production on changes to this service area in the longer term. They will also plan further engagement opportunities with stakeholders over the coming year.

## 9. Next Steps & Timetable: Communication and Implementation of the Decision

9.1 Estimated Timetable:

<b>Milestone</b>	<b>Date</b>
CLLF DLT consider and agree the actions to be taken forward from the Short Breaks Review.	January 2025
GW1 approval via DPG	5 <sup>th</sup> June 2025
Specification and T&Cs	6 <sup>th</sup> June 2025
Forward plan entry	10 <sup>th</sup> June 2025
Publish tender notice (ITT)	1 <sup>st</sup> August 2025
Clarification questions deadline	18 <sup>th</sup> August 2025
Submission deadline/Tender return date	2 <sup>nd</sup> September 2025
Evaluation and moderation	3 <sup>rd</sup> October 2025
GW2/award report DPG approval	5 <sup>th</sup> November 2025
Submit Award Report for approval as Key Decision	10 <sup>th</sup> November 2025
Call-in period	17 <sup>th</sup> November 2025

Notify successful and rejected suppliers	25 <sup>th</sup> November 2025
Standstill period	3 <sup>rd</sup> December 2025
Contract award issued	15 <sup>th</sup> December 2025
Contract Mobilisation	1 <sup>st</sup> January 2026
Contract start date	1 <sup>st</sup> April 2026

\* Please note that the above timetable is indicative and may change in accordance with the introduction of the new Procurement Act 2023, as of 24<sup>th</sup> February 2025.

## 10. Report Appendices

10.1 There are no appendices with this report.


## 11. Background Papers

11.1 There are no background papers to this report.

## 12. Cross-Cutting Issues and Implications and Sign-Off

Issue	Implications	Sign-off
<b>Legal</b>	<p>The Council is entitled to modify existing contracts during their term if the modification satisfies one or more of the safe harbours contained in regulation 72 of the Public Contracts Regulations 2015 (PCR) and is in accordance with CSO 28 of the Council's CSOs. The Council can rely on regulation 72(1)(e) of the PCR which provides for non-substantial modifications irrespective of value. These modifications must not:</p> <ul style="list-style-type: none"> <li>• render the contract materially different in character from the original contract;</li> <li>• be such that other suppliers might have tendered for the services;</li> <li>• be such that another supplier could have been awarded the contract;</li> <li>• change the economic balance of the contract in favour of the contractor;</li> <li>• extend the scope of the contract considerably.</li> </ul>	<p>Yana Sanderson 04.02.25</p>

Issue	Implications	Sign-off
	<p>The report demonstrates that the above listed requirements of Regulation 72(1)(e) of the PCR and CSO 28 have been met and thus the Council can proceed with a modification as proposed in the report.</p> <p>Contract extension must be recorded in writing and signed/sealed (as appropriate) by both the Council and the Provider.</p>	
<p><b>Finance and other resources</b></p>	<p>The value of this contract has not increased in line with CPI over the 8-year period. This is now addressed through a £17,2k increase in total contract value to £223,2k. Funding for the contract will be met from within the short break delivery budget and planned changes to the delivery model over the 2025/26 financial year. Finance is therefore happy to approve, as there is limited financial risk.</p>	<p>Charles Quaye, Financial Service Advisor.  05/02/2025</p>
<p><b>Equalities</b></p>	<p>Decision-makers are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper could directly impact on end users. The impact has been analysed and varies between groups of people. The results of this analysis are immediately below.</p> <p>The recommendations in this report are advantageous for children and young people with disabilities. They advance equality by ensuring that they have access to community group activities just their non-disabled peers, and have fun, develop new interests, skills, relationships and greater independence. As a result of the gender and race / ethnicity imbalances in children with disabilities the proposals will have more benefits for boys and children from ethnic minority backgrounds.</p>	<p>Clare Devane Short Breaks Consultant 31<sup>st</sup> January 2025</p>
<p><b>Procurement &amp; Social Value</b></p>	<p>The proposed variation and subsequent extension are required to ensure sufficient time to undertake a full and compliant procurement exercise, to include the</p>	<p>Nathan Liburd (Category Advisor – People)</p>

Issue	Implications	Sign-off
	<p>outcomes from the service review. This is within the tolerance of Regulation 72 of PCR15.</p> <p>It should be noted that the re-procurement will be subject to the Procurement Act 2023 regulations.</p> <p>The contract register will need to be updated to reflect the updated contract expiry date.</p>	6 <sup>th</sup> February 2025
<b>Climate Change</b>	The decisions recommended in this paper have a remote or low impact on Merton's Climate Strategy & Action Plan adopted by full Council on 18th November 2020.'	Clare Devane 3 <sup>rd</sup> February 2025
<b>Health and wellbeing</b>	<p>The proposals in this report have a positive impact on children and young people aged 5 to 24 with disabilities and their families.</p> <p>It recommends the continued delivery of short breaks group activities which enable children to engage with one another. It gives them opportunities to have new experiences and access community settings. It provides a break to parents from the additional stresses and responsibilities of caring for a child with disabilities.</p>	Clare Devane 31 <sup>st</sup> January 2025
<b>Executive Director</b>	Clearance/Approval of Report	 6 <sup>th</sup> March 2025
<b>Cabinet Member/s</b>	Clearance/Approval of Report	Cllr Usaama Kaweesa 7.3.25

**REPORT AUTHOR: Clare Devane, Short Breaks Consultant**

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## Merton Council - call-in request form

### 1. Decision to be called in: (required)

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### 2. Which of the principles of decision making in Article 13 of the constitution has not been applied? (required)

Required by part 4E Section 16(c)(a)(ii) of the constitution - tick all that apply:

(a) proportionality (i.e. the action must be proportionate to the desired outcome);	
(b) due consultation and the taking of professional advice from officers;	
(c) respect for human rights and equalities;	
(d) a presumption in favour of openness;	
(e) clarity of aims and desired outcomes;	
(f) consideration and evaluation of alternatives;	
(g) irrelevant matters must be ignored.	

### 3. Desired outcome

Part 4E Section 16(f) of the constitution- select one:

(a) The Panel/Commission to refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns.	
(b) To refer the matter to full Council where the Commission/Panel determines that the decision is contrary to the Policy and/or Budget Framework	
(c) The Panel/Commission to decide not to refer the matter back to the decision making person or body *	
* If you select (c) please explain the purpose of calling in the decision.	

**4. Evidence which demonstrates the alleged breach(es) indicated in 2 above (required)**

Required by part 4E Section 16(c)(a)(ii) of the constitution:

**5. Documents requested**

**6. Witnesses requested**

**7. Signed (not required if sent by email): .....**

**8. Notes – see part 4E section 16 of the constitution**

Call-ins must be supported by at least three members of the Council.

The call in form and supporting requests must be received by 12 Noon on the third working day following the publication of the decision.

The form and/or supporting requests must be sent:

- **EITHER** by email from a Councillor’s email account (no signature required) to [democratic.services@merton.gov.uk](mailto:democratic.services@merton.gov.uk)
- **OR** as a signed paper copy to the Head of Democracy Services, 1<sup>st</sup> floor, Civic Centre, London Road, Morden SM4 5DX.

For further information or advice contact the Head of Democracy Services on  
020 8545 3357