

**Decision Maker:** Executive

**Date:** For Pre-Decision Scrutiny by the Education Policy Development and Scrutiny Committee on 17 September 2013

For Decision by Executive on 16 October 2013.

**Decision Type:** Non-Urgent Executive Key

**Title:** Commissioning Review of Education Services

**Contact Officer:** Laurence Downes, Commissioner, Education and Children's Social Care  
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**Chief Officer:** Terry Parkin, Executive Director, Education and Care Services

**Ward:** All Wards

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1. Reason for report

Reviews of a number of different services have taken place as part of the Bromley Commissioning Programme (endorsed by Executive 3 April 2013) to consider future delivery options to assist in the achievement of the Council's Target Operating Model as a '...commissioning organisation, determining who is best placed to deliver high quality services based on local priorities and value for money principles'.

Education Services is one of the service areas reviewed as part of the Commissioning Programme. The recommendations of the Commissioning Review for Education Services are:

- To commence market testing for the delivery of Education Services (as specified in this report) via a tendering process for a single 'bundle' of services;
- To commence discussions with relevant schools a contract for services for the Primary and Secondary Hearing Impairment provision;
- To retain a limited amount of in-house capacity (in relation to the services in the scope of this report) to ensure the Council can provide appropriate strategic leadership in the delivery of Education Services.

This report seeks approval from the Portfolio Holder to commence with the implementation of the Commissioning Review recommendations, subject to final approval from Executive.

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## **2. RECOMMENDATION(S)**

**The Education Portfolio Holder asks the Education Policy Development and Scrutiny Committee to consider and provide views to the Executive about the proposals for:**

- i. market testing for all relevant Education Services (as specified in Table 1) via a tendering process for a single 'bundle' of services for a contract with a minimum term of five years with appropriate extension options;**
- ii. the commencement of discussions with relevant schools for a contract for services for the Primary Hearing Impairment Unit and Secondary Deaf Centre;**
- iii. the retention of appropriate in-house capacity (in relation to the services in the scope of this report) to ensure the Council can provide strategic leadership and management of the delivery of Education Services, with the details to be finalised aligned with the market testing of services and the on-going Baseline Review process;**
- iv. sustained sold service delivery for relevant Education Services (as specified in 3.18) so that they can form part of the market testing approach for the future delivery of services.**

**Subject to the views of the Education Policy Development and Scrutiny Committee the Executive is asked to approve the recommendations set out in i. to iv. above; and**

- a. agree that the market testing programme will be overseen by the Commissioning Board;**
- b. agree that a further report detailing the outcome of the market testing and recommendations be brought back to a later meeting of the Executive.**

## Corporate Policy

1. Policy Status: Existing Policy: Commissioning Programme; Academy Agenda.
  2. BBB Priority: Children and Young People Excellent Council:
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## Financial

1. Cost of proposal: Estimated Cost:  
£6,495,030 Controllable Budget (**excluding** DSG/RSG recharges, income and grants)  
£1,867,780 Controllable Budget (**including** DSG/RSG recharges, income and grants)
  2. Ongoing costs: Recurring Cost:
  3. Budget head/performance centre: Education Services (121, 136, 122, 132, 118)
  4. Total current budget for this head:  
£44,084,700 Controllable Budget (**excluding** DSG/RSG recharges, income and grants)  
£6,281,320 Controllable Budget (**including** DSG/RSG recharges, income and grants)
  5. Source of funding: Dedicated Schools Grant / Revenue Support Grant
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## Staff

1. Number of staff (current and additional): 115.8 FTE (estimated)
  2. If from existing staff resources, number of staff hours:
- 

## Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: Applicable:
- 

## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Parents and children in receipt of Education Services in Bromley
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

### **3. COMMENTARY**

#### **Background**

##### **The Commissioning Programme**

- 3.1 On 3 April 2013, Executive approved the recommendation of the Commissioning Team Programme Budget report (DRR13/043) to implement the Commissioning Programme. The Commissioning Programme is a programme of service reviews to embed the implementation of the Council's Target Operating Model as '...a Commissioning Organisation determining who is best placed to deliver high quality services based on local priorities and value for money principles'. Each service review would consider future delivery models for the service. The reviews were carried out in conjunction with (but separately from) Baseline Reviews that would consider the level of service delivery for each service.
- 3.2 Ten service areas, including Education Services, were identified to be reviewed as part of the first phase of the Commissioning Programme.

##### **The Education Covenant**

- 3.3 On 19 March 2013, the Education Policy & Development Scrutiny Committee considered the recommendations (subsequently approved by the Education Portfolio Holder) of the Future Role in Education Services report (ED13032). This report was approved by Executive on 3<sup>rd</sup> April 2013.
- 3.4 The paper outlined a new strategic position for the role of the Local Authority in relation to Education Services as embodied by the Education Covenant. This describes the Local Authority adopting the role of community champion on behalf of parents and their children, holding schools to account and ensuring an adequate supply of high quality school places. Schools are encouraged to be independent of the Local Authority while the Local Authority is responsible for the delivery of statutory services but is not necessarily the provider of those services. Statutory services should be delivered at the de minimis level (the definition of the de minimis level being developed via the Baseline Reviews). Non-statutory services, including sold services, should be decommissioned except where there is a clear evidence base to continue with a service due to the risk of increased cost or reputational risk to the Council as a result or, for sold services, where this could form part of a commissioned service.

##### **The Academy Agenda**

- 3.5 The policy in Bromley is to encourage and facilitate academy conversion for all Bromley schools. Currently 16 of the 17 secondary schools have converted to academy status, with the remaining school fully intending to convert. 16 of the 74 primary schools have converted to academy status, with a further 18 in the process of conversion. In addition, a further 11 schools are in the early stages of applying for academy conversion. As a result, at least 58% of primary schools have either converted or are in the process of academy conversion. It is not unreasonable to assume that most, if not all, schools may have converted to academy status by the 2015/16 academic year. As more schools convert to academy status, the Dedicated Schools Grant funding received by the LA is reduced proportionately as are the statutory duties placed upon the LA to deliver services to schools.

#### **The Services**

- 3.6 The Education Services covered by the Commissioning Review are outlined in the table below (Table 1), with a summary of the services they provide. Discretionary services are shown in *italics*.

3.7 In taking forward the recommended options from the Commissioning Review, the specification for each service will need to be defined and informed by the outcomes of the Baseline Review process. A key part of the specification will be to identify the expected outcomes for each service and the relevant performance indicators, together with any deliverables of the service that need to be clearly defined and specified.

**Table 1: Services**

Service	Services Provided
<b>Admissions</b>	<ul style="list-style-type: none"> <li>• Co-ordination of admissions to schools.</li> <li>• Providing information to parents.</li> <li>• Managing fraudulent applications and appeals from parents.</li> <li>• Following statutory processes when closing, opening or altering schools, including consultations.</li> <li>• Administrating Home to School grants.</li> <li>• Assessment of entitlement to Free School Meals.</li> <li>• <i>Sold Service (Free School Meals assessment Academies).</i></li> </ul>
<b>Strategic Place Planning and Capital Management</b>	<ul style="list-style-type: none"> <li>• Securing sufficient education places, the strategic planning of number of pupil places in Bromley in the short, medium and longer term.</li> <li>• Strategic planning and commissioning role in administering the Basic Needs Capital Grant to support agreed expansions of schools to accommodate pupil numbers.</li> </ul>
<b>Education Welfare</b>	<ul style="list-style-type: none"> <li>• Prosecuting parents in cases where their child has a record of consistent non-attendance at school, including Education Supervision Orders and School Attendance Orders.</li> <li>• Establishing identities of children not receiving suitable education.</li> <li>• Licence applications for children taking part in performance or paid sports and modelling work.</li> <li>• <i>Prevention Activities for maintained schools.</i></li> <li>• <i>Sold Service – prevention activities for Academies.</i></li> </ul>
<b>Behaviour Services</b>	<ul style="list-style-type: none"> <li>• Statutory responsibility to educate any child that has been excluded from full-time education for more than six days and to make arrangements for the provision of suitable education for each child who is unable to attend full-time education due to illness, exclusion or other reasons.</li> <li>• Teachers for home/hospital tuition for pupils on an individual basis.</li> <li>• <i>Flexible Learning Provision.</i></li> </ul>
<b>School Standards</b>	<ul style="list-style-type: none"> <li>• The service focuses on school standards mainly in maintained schools and therefore the majority of staff are focussing their work in Primary schools. Other functions associated with curriculum development, governor support and teacher training form part of the 'Adult Education' team.</li> <li>• The team focus their work with schools causing concern ensuring the Local Authority meets its statutory obligations for standards in maintained schools.</li> </ul>

Service	Services Provided
<b>Workforce Development &amp; Governor Services</b>	<ul style="list-style-type: none"> <li>The Council has a statutory responsibility to provide Governor support, training and development to maintained schools.</li> <li><i>Sold Service (governor services to academies and broader professional development courses to all schools)</i></li> </ul>
<b>Early Years</b>	<ul style="list-style-type: none"> <li>Securing the sufficiency and quality of statutory free places for 2, 3 and 4 year olds.</li> <li>Administering approval of payments for statutory free places in terms of eligibility.</li> <li>Information, advice and training to childcare providers. Information, advice and assistance to parents.</li> </ul>
<b>SEN Inclusion Support</b>	<ul style="list-style-type: none"> <li>The Educational Psychological Service meets the Local Authority's statutory responsibility to provide advice for children's statements of Special Educational Needs (SEN);</li> <li><i>Sold Service (additional Educational Psychology services to maintained schools and academies).</i></li> <li>A group of peripatetic teachers are employed as specialists working in a range of services with designated groups of children. These services have teachers who generally work with the children in the educational establishment that they attend.</li> <li>The Darrick Wood Primary Hearing Impairment Unit, located at The Griffins on the Darrick Wood campus, provides 18 places for children who have hearing impairment.</li> <li>The Darrick Wood Secondary Unit for children with hearing impairment in the secondary phase of their education is located in two classrooms of the Darrick Wood Academy.</li> </ul>

3.8 There are a number of Education Services that were not included as part of this Commissioning Review. These are:

- Special Educational Needs (other than those services identified above) – Bromley has National Pathfinder status to trial and test proposals in the Government's SEN and Disability Green Paper, 'Support and Aspiration'. It is not appropriate at this time to include the majority of SEN services within the Commissioning Review until the new models of delivery have been implemented and reviewed.
- Bromley Adult Education – this is subject to a separate review.
- Behaviour Services – aspects of Behaviour Services (Behaviour Support preventative activities, Respite provision, etc.) are currently subject to a separate review.
- Bromley Nursery Provision – this is subject to a separate procurement exercise.
- The Phoenix Centre and pre-school SEN support – this will be subject to a separate review.
- Human Resources and Finance (Education) – both subject to a separate review.

3.9 In addition, there are a number of Council services to schools on a sold service basis that do not form part of this review. This is because they tend to be services open to a varied customer base of which schools are but one customer, e.g. Waste Disposal, Grounds Maintenance and so on. Other Education related services are not included in the review because they sit outside the Education department, e.g. Educational Visits, Research and Statistics, Payroll and Insurance.

Separate decisions will need to be made on whether these services continue providing a sold service offer to schools.

### **The Commissioning Review**

- 3.10 The Commissioning Review consists of three stages. The first stage considers the range of commissioning options and identifies the preferred options for further exploration. These options are considered in more detail in the second and third stages of the Review process, the outcome of the third stage being to agree recommendations for formal approval by the Portfolio Holder and Executive as required. The Review process is overseen by the Commissioning Board which includes the Portfolio Holder for Resources, the Portfolio Holder for Education, the Leader of the Council and Chief Officers.
- 3.11 The Commissioning Board agreed at the Stage 1 process that the preferred options for the future delivery of Education Services were: market testing for the delivery of services by an external organisation(s); delivery by schools for appropriate services via the delegation of budgets or a contract for services as appropriate; together with the limited retention of in-house capacity. As a result, soft market testing was undertaken to establish the market readiness for the contracted delivery of services, the outcome of which has led to completion of the Review process and the agreed recommendations for formal approval.
- 3.12 Other delivery options were considered at the Stage 1 process. Wholesale retained in-house delivery was not taken forward as an option as it does not meet the Council's Target Operating Model of a commissioning-led organisation or the aim to support independence and autonomy for Bromley schools. The impact of on-going funding reductions to both DSG and RSG means that in-house delivery may not be affordable or sustainable in the long term. Shared services was rejected as an option due to the time and cost it would take to implement, the uncertainty as to whether a shared services model could be successfully agreed across all, or even some, services and the limited savings that would result.

### **Proposed Options for Future Delivery**

- 3.13 It is proposed that the future delivery model for the Education Services included within the Commissioning Board's review is as follows:
- i. Limited retention of in-house capacity to act as an 'intelligent client' and to provide strategic leadership for Education, particularly around the duty on the sufficiency and quality of school places and early years provision;
  - ii. Agree a contract for services for the Darrick Wood Primary Provision for Hearing Impairment and the Darrick Wood Deaf Centre (Secondary) to Bromley schools, preferably to the schools in which the provision is currently based;
  - iii. Market testing of all other Education Services via an appropriate procurement and tendering process.

#### **3.14 *Retention of In-House Capacity***

3.14.1 The rationale for retaining a limited amount of in-house capacity is clear and straightforward:

- We need to retain the ability to act as an 'intelligent client' to ensure that outsourced services continue to meet the roles and responsibilities of the Council in relation to its statutory duties and in responding to developing education policy;

- We need to provide strategic leadership in acting as the community champion of parents and their children and holding schools to account in ensuring an adequate supply of high quality school and early years places.
- We need to maintain effective relationships with Bromley schools.
- We need to ensure effective leadership and management of the education services retained by the Council.
- We need to support Members in their oversight of education services and schools in Bromley and the on-going monitoring of the performance of education services to ensure that outcomes for children and young people continue to be improved.

3.14.2 While the detail is to be determined via the on-going Baseline Review and service redesign process, an illustrative outline of the capacity to be retained within the Council includes posts at senior level for strategic pupil place planning, capital management, school improvement and early years. It is expected that the capacity retained in-house would achieve savings by reducing employee costs against the current baseline.

### 3.15 **Contract for Services for Hearing Impairment Unit and Deaf Centre**

3.15.1 The Darrick Wood Primary Provision for Hearing Impairment and the Darrick Wood Deaf Centre (Secondary) provide support to children and young people with hearing impairment and sensory support needs. The Primary provision is based at The Griffins (Council owned, which is also the base of the Sensory Support Service) located on the Darrick Wood Infants/Darrick Wood Junior campus; and the Deaf Centre for Secondary School Pupils is located in two classrooms at Darrick Wood Secondary School (operating under a 'goodwill' arrangement).

3.15.2 The budget for this provision (contained within the SEN Inclusion Support entry in Table 1 above) is wholly DSG funded and is as follows:

**Table 2: Budget for Services Delegated to Schools**

<b>Budget Heading</b>	<b>Primary Provision for Hearing Impairment</b>	<b>Deaf Centre (Secondary)</b>
Employees	248,320	342,490
Supplies and Services	6,900	4,370
Premises	0	1,500
Transport	0	0
<b>Total Controllable Budgets</b>	<b>255,520</b>	<b>348,360</b>
<b>Total – All Controllable Budgets</b>	<b>603,880</b>	
Non-Controllable Budgets	76,510	93,390
Total – All Non-Controllable Budgets	169,900 All non-controllable budgets are re-charged to DSG.	

3.15.3 There are 36 employee posts (15.46 FTE) within this budget, which relate to teaching staff and teaching support staff.

3.15.4 Other similar units within the borough are managed by the schools at which they are based. The proposal is to replicate the approach taken with other similar provision in the borough and seek to approach the relevant Heads at the Darrick Wood schools to take on management of the units via a contract for services. The Council would seek agreement for 'first refusal' for referrals to the Hearing Impairment Centres as part of any agreed arrangement.



- 3.15.5 If some, or all, of the relevant Heads are not willing to take on management responsibility of the Units then other schools can be approached to fulfil this function, although this will most likely lead to relocation of the Secondary Deaf Unit. Alternatively, the provision can be included as part of the package of services to be outsourced.
- 3.15.6 It is proposed that the Primary Deaf Unit is retained at the Council owned Griffins Centre unless an alternative suitable site is proposed as part of the delegated responsibility discussions. Similarly, the Sensory Support Service also based at the Griffins Centre may be subject to relocation as part of a market testing proposal. Should this be the case, then the use of the Griffins Centre as an asset will need to be explored. However, the current intent is to continue delivery of these services at the Griffins Centre if possible.

### 3.16 ***Market Testing Delivery of Education Services***

- 3.16.1 Market testing, other than for those services described above, was viewed as the preferred model for the commissioning of Education Services in the future. The market testing of Education Services:
- Meets the Council's Target Operating Model of being a commissioning-led authority, as opposed to a service provider;
  - Meets the aims of the Education Covenant by enabling Bromley to move from being a direct provider of services to schools to provide strategic leadership and oversight and acting as community champion for parents and their children. It should enable the Council to focus on quality assurance ensuring positive impact of services on outcomes for all pupils;
  - Should lead to reduced costs through the transfer of staff resource, which should impact on associated staff costs and overheads;
  - Ensures that the Council meets its statutory responsibilities whilst passing on operational responsibility and cost management;
  - Can lead to increased efficiencies and reduced costs by supporting alternative delivery models with organisations operating on economies of scale in back office functions and flexible workforce.
  - Can be aligned to the Baseline Review to ensure that all relevant savings in relation to staffing and reconfiguring services to the de minimis have already been made prior to market testing.
  - Provides an opportunity to manage out sold service delivery to external providers without incurring redundancy or restructuring costs, whilst ensuring that both statutory and sold service delivery can be aligned effectively.
- 3.16.2 Initial research was conducted by PeopleToo consultancy (who is supporting the Commissioning Programme) in May 2013 to identify the key providers in the market place for Education Services, to make contact and to conduct introductory interviews to gauge their interest and experience.
- 3.16.3 Providers were then invited to meet with Bromley to hold detailed conversations on the possibility of Education Services being commissioned through a market solution. Some providers, identified through the initial research were not followed up either because it was established by the initial discussions that they would not be in a position to bid in Bromley or

because they did not respond to communications. The outcomes of the discussions with five providers are summarised as follows:

- All providers expressed interest and confirmed that they had the capacity to deliver all aspects of education delivery covered in this report. All providers have a track record in delivering all or most of these services on behalf of local authorities and all of them have recently participated in tendering for Education Services in other Local Authorities.
- All providers expressed strong interest in the sold service aspect of service delivery. They indicated that the opportunity to develop and deliver sold services to schools, both in and out of the borough, formed a key part of their interest in bidding for any potential contract. They would like sold service delivery to be transferred across as part of a tendered package so that they could build on the existing market. They indicated interest in exploring contract structuring relating to sold services so that the potential of 'gain-share' or cross-subsidising of statutory services (potentially reducing costs to the Council) could be considered.
- All providers reflected a preferred model of a contract for services underpinned by a partnership 'ethos' (as opposed to a formal partnership model such as a joint venture), underlining that the relationship between the LA, schools and the contractor would greatly influence the success of the contract. Providers commended Bromley on their approach in undertaking initial exploratory discussions with providers.
- All providers recommended stakeholder involvement (i.e. schools) in the development of the contract specification and bidding process as a means of ensuring a smooth transition to external delivery.
- All providers recommended medium to long contract terms (e.g. five years as a minimum with options to extend) to ensure interest and investment from the market. A shorter contract term is likely to be priced accordingly (i.e. up front set up costs not being mitigated by long term return on efficiencies and income).
- Providers did not have a clear view as to whether a restricted tender process or a competitive dialogue approach had any clear advantage. Most indicated that competitive dialogue could lead to a stronger contract and relationship with the provider but that this would increase costs for both parties in the tendering process and would likely be a longer process. A restricted tender process is more dependent upon the clarity of the specifications produced by the Borough and would need to ensure sufficient time was built in to conduct detailed discussions on the future models of delivery. All providers indicated that they would wish to work with the Borough in developing specifications focused on outcomes and appropriate performance indicators, as opposed to detailed operational specifications that prescribed delivery processes.
- All providers expressed a strong preference in bidding for an overall package of services as opposed to individual tenders for each service or a tender made up of lots. They pointed out the potential of increased cost to both the provider and the LA in managing multiple bidding processes. They also highlighted the potential difficulties in services being delivered by multiple providers due to the co-dependency of many aspects of the services together with data sharing issues and increased contract management costs.
- All providers indicated that the question of liabilities, such as pension liabilities, would affect their view as to the attractiveness of a contract. Providers were, in the main, not willing to take on pension liabilities of transferring staff or indicated that to do so would be priced accordingly to manage the risk.

- All providers strongly indicated their intent to bid for a Bromley market testing proposal and wished to be kept informed of the decision making process and timescales by which invitation to tender might be made.
- All providers acknowledged that the annual funding envelope for the delivery of services would be variable based on DSG reductions as a result of on-going academy conversions and a reduction in the level of statutory delivery as a result. Providers would look to compensate by increasing sold service income as the academy market share increases.

### **Sold Services**

3.17 Feedback from the soft market testing has indicated that potential providers of Education Services have a strong preference for sold service delivery infrastructure to be included within a market testing option as this will allow them to build on a service offer to schools that is already developed. In doing so, the Council may benefit from an improved pricing structure for the delivery of the core statutory services.

3.18 Therefore it is proposed to sustain, subject to viability following the Baseline Review process, sold service delivery for the following services for inclusion within the bundle of Education Services to be market tested:

- Education Welfare;
- Free School Meals;
- Education Psychology;
- Workforce Development & Governor Services.

3.19 All these services are currently meeting or exceeding their income targets and therefore should be operating on a full cost recovery basis.

3.20 There remains a range of other services offered on a sold service basis to schools for which separate decisions need to be made as to whether the LA continues to offer these. With one exception, they are all delivered outside of Education Services. The one remaining area of sold service delivery within Education Services is Behaviour Support (Respite provision and Behaviour Support packages to academies) which is currently being considered as part of the review of the Behaviour Service elements not in the scope of this report.

### **Planning Factors**

3.21 It is proposed to commence a tendering process for the delivery of Education Services in Bromley as part of an overall package. Discussions with the market have confirmed that this is the preferred approach and will generate more interest in bidding from those providers with the capability and capacity to deliver services. Procuring Education Services in a piecemeal way or in bundled lots may open the market to a more diverse range of providers. However, the opportunities to achieve efficiencies through economies of scale will be reduced; contract procurement and management costs will increase; and the risks to service delivery increase due to the reliance on multiple parties working together effectively with schools, the Council and each other.

3.22 The timescale of the tendering process will be dependent upon the procurement strategy agreed – for example, a competitive dialogue approach will take longer to implement than a Restricted Tender process but could result in a stronger delivery model and provider relationship. An indicative timescale would be twelve to eighteen months for a procurement process to be

completed which would indicate a start date for the Academic Year 2014/15 or the Financial Year 2015/16. However, all providers fed back that they don't regard commencement of a contract linked to an academic or financial year milestone as a necessity and therefore a contract start can be flexible.

3.23 Key planning factors (Table 3) include:

<p><b>Contract for Services of Hearing Impairment Units to Schools</b></p>	<ul style="list-style-type: none"> <li>• Consultation with Finance on the process (Commissioner / Finance Team);</li> <li>• Engagement with Schools (Commissioner / AD Education);</li> <li>• Internal stakeholder consultation (Commissioner / AD Education / Inclusion Support staff / HR Support);</li> <li>• Premises issues arising - the Griffins (Commissioner / Finance Team / Property Team / Legal Team).</li> </ul>
<p><b>Procurement Strategy</b></p>	<ul style="list-style-type: none"> <li>• Agree and process map the agreed Procurement Strategy (Commissioner / ECHS Procurement / Corporate Procurement / Legal);</li> <li>• Set up Procurement Project Group to manage the process (Commissioner / ECHS Procurement / Corporate Procurement / Legal / HR / Finance / AD Education).</li> </ul>
<p><b>Detailed Financial Modelling</b></p>	<ul style="list-style-type: none"> <li>• Clarify Baseline funding envelope following Baseline Review and restructuring (Commissioner / Finance Team);</li> <li>• Estimate operational costs (Commissioner / Finance Team);</li> <li>• Update DSG funding modelling to model effects on funding (Finance Team);</li> <li>• Agree position on Pensions and other liabilities to form part of specification (Commissioner / Finance Team / Legal / HR);</li> <li>• Modelling of contract pricing mechanisms (Commissioner / Finance Team / Corporate Procurement).</li> <li>• Detailed financial evaluation of tenders (Finance Team).</li> </ul>
<p><b>Specification Development – Identification of Key Outcomes and Performance Indicators</b></p>	<ul style="list-style-type: none"> <li>• Service by service specification development (Commissioner / AD Education / Service Teams / Performance &amp; Planning / Legal / Schools);</li> <li>• Development of tender evaluation criteria and evaluation group (Commissioner / AD Education / Corporate Procurement / Legal / Service Teams).</li> </ul>
<p><b>Stakeholder Engagement</b></p>	<ul style="list-style-type: none"> <li>• Early engagement with schools, inviting participation in specification development and tender evaluation (Commissioner / AD Education);</li> <li>• Early engagement with all relevant stakeholders including staff and staff representatives on the proposals;</li> <li>• On-going consultation and input from Service Teams in specification design and evaluation (Commissioner / AD Education).</li> </ul>

<b>HR Processes – TUPE implications</b>	<ul style="list-style-type: none"> <li>• Early engagement with HR to map and implement HR change management processes (Commissioner / HR / Legal);</li> <li>• Collation of data pertaining to TUPE transfer where relevant (HR);</li> <li>• Statutory consultation processes (Commissioner / HR / Legal).</li> </ul>
<b>Design of Procurement Process</b>	<ul style="list-style-type: none"> <li>• OJEU (Commissioner / ECHS Procurement / Corporate Procurement);</li> <li>• PQQ process and design (Commissioner / ECHS Procurement / Corporate Procurement);</li> <li>• Invitation to Tender process and documentation (Commissioner / ECHS Procurement / Corporate Procurement);</li> <li>• Establish evaluation and scoring methodology (Commissioner / ECHS Procurement / Corporate Procurement);</li> <li>• Ensure appropriate ALCATEL processes are followed.</li> </ul>
<b>Non-Controllable Budget Implications</b>	<ul style="list-style-type: none"> <li>• Model impact of externalised services on corporate overheads and re-charges to DSG (Finance Team);</li> <li>• Remodel accommodation and centralised costs requirements at a corporate level linked to the impact of all commissioning reviews (Finance Team / Resources / Chief Executives).</li> </ul>
<b>Member Approval</b>	<ul style="list-style-type: none"> <li>• Map out and plan for all required Member scrutiny and approval – Education PDS, Executive and Cabinet (Commissioner / Performance &amp; Planning).</li> </ul>
<b>Workforce Development and Governor Services</b>	<ul style="list-style-type: none"> <li>• Aligned with the review of Bromley Adult Education provision, it is to be established whether this service area currently delivered through Bromley Adult Education is to be included in an outsourcing option for Education Services or whether it forms part of the Adult Education Review.</li> </ul>

## **Risks**

3.24 As with any major service redesign, there are associated risks. A detailed risk matrix will be produced as part of the procurement strategy. Key risks include:

- Procurement Costs: mitigated by detailed procurement planning at the commencement of the project; utilising a Restricted Tender process if possible to limit the length of the procurement process; utilising in-house resource (i.e. no additional costs over existing budgets) wherever possible
- Failure to meet statutory responsibilities: mitigated by detailed service specification planning informed by Legal and service teams. Community engagement to minimise or successfully defend legal challenge or judicial review.
- Increased costs of delivery – mitigated by defining the available funding envelope as part of the tender process and incorporating appropriate contractual clauses to address cost escalation.

- Carrying non-controllable costs: mitigated by implementing a corporate approach to the rationalisation of overhead costs as part of the overall commissioning review process.
- Pensions and liabilities: mitigated by establishing clear position from Legal, Human Resources and the Finance Team and ensuring the agreed position is reflected in the contract.
- Human Resources Issues: mitigated by early engagement with the Human Resources team and early planning on all legal requirements
- Poor performance and Outcomes: mitigated by establishing robust contract management and monitoring procedures together with consideration of pricing structure linked to performance indicators (incentives and/or penalties).
- Relationship with schools: mitigated through early engagement with schools and invitation to participate in specification development and tender evaluation.

#### **4. POLICY IMPLICATIONS**

- 4.1 The market testing proposals are in line with the Council's Corporate Operating Principle and target operating model of a commissioning-led authority. The proposals are in line with the Education Covenant and the Academy Agenda.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 The table below (Table 4) outlines the budgets and personnel for each service. All figures are based on the 2013/14 Budget Book as issued in April 2013 and the Employee Budget Monitoring data as at April 2013. The figures do not reflect any subsequent agreed restructures that may affect the relevant budgets or EBM figures, although it is understood that pending restructures will not be finalised until September 2013 in any case.
- 5.2 The overall budget for the services in scope is £6.5M (Controllable Budget), not including credits for income and recharges to DSG and RSG budgets. £4.4M (68%) of the total is DSG funded with the remaining £2.16M funded through RSG. It is in the RSG funded activities that savings should be sought via the Baseline Review process before implementing a market testing solution.
- 5.3 An additional £1.54m of budget is linked to Corporate Overheads for these services. A market testing solution will have significant impact on these budgets. The non-controllable budgets fund a range of support services (e.g. Computer Charges, contributions to Strategic Support and Commissioning Services, etc.) much of which will no longer be required following market testing. Over half (53% or £825K) of the non-controllable budget costs are currently re-charged to DSG budgets. It is unlikely that this can continue, given the externalisation of many DSG funded services, and therefore a significant proportion of costs for support services will be 'cost-shunted' to RSG, leading to a spike in RSG costs in the short term. Furthermore, we will not be able to establish, until we have approached the market through a tendering process, what proportion, if any, of the non-controllable costs will be required to support delivery through an external contract. Market testing will have a significant impact on the accommodation and central support service needs of the Council and this will need to be addressed as part of the planning process.
- 5.4 Income, primarily from sold services to external and internal customers, reduces the overall cost to the Council by £632K, of which just over half (54%) is related to DSG. It is expected that income, and income potential, will form part of the price agreed as part of a market testing solution.

5.5 The services are staffed by a total of 145 posts, equating to 115.8 FTE. Market testing is likely to have staffing implications which may involve the transfer of most, if not all, staff. Further details are set out in paragraph 7 below (Personnel Implications). A small proportion of staff (and related budget) may be retained to ensure in-house capacity to act as an 'intelligent client' for the delivery of Education services – the exact complement of staff to be retained needs to be agreed as part of the Baseline Review and Procurement process.

**Table 4: Finance and Personnel**

Service	Funding			Personnel
	Budget	DSG	RSG	
<b>Admissions and Capital Facilities Management</b>	Controllable	269,450 (not including income target of £10k)	277,260	14 posts 12.2 FTE
	Total	609,750		
<b>Education Welfare</b>	Controllable	0	401,560 (not including income target of £73,430)	12 posts 11.5 FTE
	Total	401,560		
<b>Behaviour Services</b> Home & Hospital, Progression Courses and Head of Service budgets only.	Controllable	1,285,360 (includes £357k of third party payments) (not including £192k of income (internal))	0	22 posts 19.9 FTE
	Total	1,285,360		
<b>Early Years</b> not including in-house Nursery provision	Controllable	19,620 (not including £2.78M of funding for nursery places)	573,310	18 posts 14.7 FTE
	Total	592,930		
<b>School Standards</b>	Controllable	619,190 (not including income of £141k Skills Agency Grant) (includes PSAG budget of £148,020)	115,180	9 posts 7.5 FTE
	Total	734,370		
<b>Workforce Development &amp; Governor Services</b>	Controllable	189,480	105,610 (not including income target of £105k)	3 posts 3 FTE
	Total	295,090		
<b>SEN Inclusion Support</b> Education Psychology / Hearing Impairment / Deaf Centre / SEN Support in Mainstream / Social Communication Difficulties / Sensory Support	Controllable	1,954,790	621,180 (not including income target of £110,430)	67 posts 47 FTE
	Total	2,575,970		
<b>All Services</b>	Controllable	<b>4,337,890</b>	<b>2,157,140</b>	145 posts 115.8 FTE
	Total	<b>6,495,030</b>		

5.6 It is not possible to robustly model the financial impact of a market tested delivery model due to the unknown variables which include:

- The amended baseline position following Baseline Review;
- On-going reductions in DSG as a result of academy conversion;
- The contract price and negotiated efficiency or gain-share targets, if any, achievable through the contract following detailed market testing through an Invitation to Tender.

5.7 A market testing option is not expected to realise significant savings as the Baseline Review is intended to strip out all unnecessary costs by positioning service delivery at the de minimis level. Furthermore, two thirds of the available funding is DSG so any savings made here will not contribute to the Bromley bottom line.

5.8 The modelling below is therefore purely illustrative to demonstrate potential cumulative savings. The models take the current baseline as a fixed position (bearing in mind that the baseline will be adjusted following the Baseline Review and will also be subject to various uplifts and reductions) and models the effect of different contract assumptions on the RSG element of the budget: a 10% saving based on the general rule of thumb of what outsourcing is typically expected to achieve; together with cumulative savings as a result of speculative efficiency targets built within a contract.

**Table 5: Illustrative Financial Modelling**

	DSG	RSG	Total
Controllable Budget Baseline	4,337,890	2,157,140	6,495,030
Adjustments for Income and Grants	4,186,890	1,867,780	6,054,670
Estimated Retained In-House Cost	302,000	0	200,000
Estimated Delegation to Schools	603,880	0	603,880
Controllable Budget Funding Envelope for Outsourcing	3,281,010	1,867,780	5,148,790

Efficiency Models – RSG only	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
10% Efficiency Assumption Cumulative	186,778	373,556	560,334	747,112	933,890	1,120,668
1% Annual Efficiency Target	0	18,678	18,491	18,306	18,123	17,942
1% Annual Efficiency Target Cumulative	0	18,678	37,169	55,475	73,598	91,540
3% Annual Efficiency Target	0	56,033	54,352	52,722	51,140	49,606
3% Annual Efficiency Target Cumulative	0	56,033	110,386	163,108	214,248	263,854

5.9 Offset against any savings are the non-controllable budget costs incurred by the Council that can no longer be re-charged to DSG, pending reductions in corporate overheads as part of a Council wide approach linked to the Commissioning Review programme.

5.10 Transactional costs will also be incurred in managing an outsourcing process – this cannot be quantified until the full procurement strategy is developed which can then take into account the costs in staff time from the required support of Legal, Finance, Procurement, Commissioning and HR staff. However, it is expected that wherever possible these costs will be contained within current resources and therefore will not result in an increase in actual spend.

## 6. LEGAL IMPLICATIONS

6.1 These are Part B Services for the purposes of Schedule 1 to the Public Contract Regulations 2006 (as amended). For Part B services there is a lighter regulatory regime under the 2006 regulations mainly covering non-discriminatory simplification and publishing award notices. Regards must also be had to government guidance to ensure the appropriate level of advertising needed to demonstrate a transparent process, We also have to have regard to our general fiduciary duty to local tax payers to secure value for money and comply with our internal procurement and financial regulations in the process followed.



6.2 The proposals are intended to maintain service standards for customers and it is not expected there will be any detriment to service users with protected characteristics. However the Council will review its equality obligations throughout the various stages of the process.

## 7. PERSONNEL IMPLICATIONS

7.1 Interviews with relevant Heads of Service were conducted as part of the Commissioning Review with the likely options for future delivery outlined to them. If Members agree the recommendation to market test the services, staff and their representatives will be engaged and consulted as early as practical at each stage of the process going forward, subject of course to any commercially sensitive information. There will also be engagement with service users and representatives who might be affected by the proposals.

7.2 Any staffing implications, such as redundancies or the TUPE related transfer of staff, arising from the recommendations in this report will need to be carefully planned for and managed in accordance with Council policies and procedures and with due regard for the existing framework of employment law. The tendering process will consider whether or not the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) would apply and the consequential legal and financial implications arising from this. Given the scale and number of staff involved, additional HR support will also be considered to minimise the impact on affected staff.

<b>Non-Applicable Sections:</b>	
Background Documents: (Access via Contact Officer)	Commissioning Team Programme Budget (DRR13/043) Future Role of the LA in Education Services (ED13032)