

Decision Maker: CARE SERVICES PORTFOLIO HOLDER

Date: Tuesday 11 March 2014

Decision Type: Non Urgent Non-Executive Non-Key

Title: LEARNING DISABILITY EMPLOYMENT SUPPORT -
CONTRACT EXEMPTION

Contact Officer: Colin Lusted, Business & Planning Manager, Education, Care & Health services Tel: 020 8461 7650 E-mail: colin.lusted@bromley.gov.uk

Chief Officer: Executive Director of Education, Care & Health Services

Ward: (All Wards);

1. Reason for report

- 1.1 This report concerns the delivery of a supported employment service for adults with a learning disability.
 - 1.2 The Shaw Trust currently provides supported employment services to 130 adults with a learning disability. These services are included within the market testing of adult learning disability services that are currently being progressed. A large amount of planning and transitional work is required to ensure service continuity and minimise any potential disruption and anxiety for service users.
 - 1.3 The Shaw Trust contract is due to expire on 5th July 2014 and this report seeks Portfolio Holder approval for exemption from tendering for a maximum of 12 months whilst providers taking part in the market testing of adult learning disability services:
 - Develop understanding of the supported employment services provided by the Shaw Trust
 - Decide if they will be continuing with the existing supported employment services and develop transfer arrangements or;
 - Develop alternative social businesses within Bromley that service users can transfer to
 - 1.4 The Shaw Trust have stated that they wish to withdraw from providing supported employment services in Bromley at the end of the contract but are willing to continue to provide the service as long as the Council requires, in order to put alternative arrangements in place.
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2. RECOMMENDATION(S)

- 2.1 The Care Services PDS committee is asked to note and comment on the contents of this report;
- 2.2 The Portfolio Holder is requested to agree the exemption from tendering and the award of the contract for supported employment services to the Shaw Trust for a maximum period of 12 months from 6th July 2014 at a cost of £400,330

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Supporting Independence
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Financial

1. Cost of proposal: £400,330
 2. Ongoing costs: Recurring Cost Subject to tender after expiry of the Shaw Trust contract.
 3. Budget head/performance centre: 822 100
 4. Total current budget for this head: £400,330
 5. Source of funding: Contained within existing budgets.
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Staff

1. Number of staff (current and additional): None, service provided by external provider.
 2. If from existing staff resources, number of staff hours: N/A
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Legal

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

1. Estimated number of users/beneficiaries (current and projected): 130
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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

- 3.1 The service provides Supported Employment opportunities to 130 adults with a learning disability across two sites (Bromley North & Penge). The following table demonstrates activities and the number of sessions provided in a typical week:

	Mon	Tues	Weds	Thurs	Fri	Total
Work Activity	No.	No.	No.	No.	No.	No.
Paper - News Shopper	14	17	19	20	16	86
Gardening	4	8	5	6	4	27
Wood recycling	3	5	5	7	5	25
Tuck by Truck	20	17	19	19	18	93
Community Cafe	2	3	3	2	6	16
Work Placement	3	3	3	4	2	15
Total places per day	46	53	54	58	51	262

- 3.2 A contract with the Shaw Trust to provide these supported employment services, has been in place since 2005. The contract was due to be re-tendered in 2010 but it became evident the Shaw Trust were under no obligation to transfer any of their employment service contracts to a new provider - should they be unsuccessful in re-tendering.
- 3.3 The service users were employed to undertake these services by the Shaw Trust and would be subject to the requirements of the Transfer of Undertakings (Protection of Employment) Regulations 2006 - if those services transferred. As the Shaw Trust were under no obligation to transfer the services (if they were unsuccessful with their tender), the service users employed in these services would have been made redundant with little opportunity for accessing paid employment until a new provider was able to generate new supported employment opportunities.
- 3.4 In consideration of the potentially unacceptable client impact, the Council's Executive gave approval in May 2010 to exempt the service from tendering and award a 3 year fixed term contract, following a £100,000 per annum price reduction.
- 3.5 In 2013, a one year extension to 5 July 2014, whilst a review of the service and future commissioning intentions was conducted, was approved.
- 3.6 A competitive dialogue tender process is in progress to market test a range of LBB provided services including day activities for people with learning disabilities and this includes supported employment services that are currently provided by the Shaw Trust. A large amount of planning and transitional work is required to ensure service continuity and minimise any potential disruption and anxiety for service users. The tender will resolve the difficulties encountered in 2010 when it was originally intended to re-tender the service and the Shaw Trust have stated that they now wish to withdraw from the provision of supported employment services in Bromley.
- 3.7 The tender relating to the market testing of learning disability services is scheduled for award in early 2015 and the exemption and award of the supported employment contract for a maximum of one year to the Shaw Trust will enable the new provider to:
- Develop understanding of the supported employment services provided by the Shaw Trust
 - Decide if they will be continuing with the existing supported employment services and develop transfer arrangements or;
 - Develop alternative social businesses within Bromley that service users can transfer to

- 3.8 In accordance with Contract Procedure Rules (23.7.3) and 13.1, the Portfolio Holder is requested to agree the exemption from tendering of supported employment services for adults with learning disabilities for a maximum period of 12 months from 6 July 2014 and award the contract to the Shaw Trust. This will enable the Shaw Trust to continue to provide services until the competitive dialogue tender is awarded and alternative services are in place. Provision for earlier contract termination with the Shaw Trust will be put into the contract should alternative services be established sooner.

4. POLICY IMPLICATIONS

- 4.1 In accordance with the Council's commitment to Building a Better Bromley to supporting people to live as independently as possible within the community, the proposals reflect the Council's strategic objectives for people with disabilities.

5. FINANCIAL IMPLICATIONS

- 5.1 The contract award would be for a period not exceeding twelve months. The overall budget available for this contract is £400,330 in 2013/14.

6. LEGAL IMPLICATIONS

- 6.1 The councils Contract Procedure Rules (23.7.3) and 13.1 allow for an exemption from tendering a contract where there is no extension provision, providing the Chief Officer, in Agreement with the Director of Corporate Services, and Director of Finance, consider the arrangement to be of benefit to the council and allowed by the relevant legislation. The services are Part B services for the purposes of the Public Contract Regulations 2006 (as amended). This means they are not subject to the full national and European Procurement regime. There are sound operational and business reasons for the extension after which services will be offered to the market. There is always a slight residual risk of challenge where contracts are extended without competition but the limited nature of the extension, the relatively low value of the contracts and the stated intention to seek competition in future make this unlikely.

7. PERSONNEL IMPLICATIONS

- 7.1 All of the staff employed in the Supported Employment Service are employees of the Shaw Trust as are those service users who work for the social businesses.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	