

Decision Maker: **Executive**

Date: **16 July 2014**

Decision Type: Non-Urgent Executive Key

TITLE: OUTSOURCING OF FINANCIAL ASSESSMENT TEAMS & APPOINTEESHIP & DEPUTYSHIP TEAM

Contact Officer: Lesley Moore, Deputy Finance Director
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Chief Officer: Peter Turner, Director of Finance

Ward: N/A

1. Reason for report

- 1.1 As part of the 2014/15 Budget process all areas of expenditure have been scrutinised by officers with a view to delivering services in a more efficient and effective way, particularly given the significant funding gap identified in the four year financial forecast. This has included looking at the option of outsourcing services where appropriate.
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2. **RECOMMENDATION(S)**

2.1 **The Executive is asked to**

- a) **Agree the transfer of services and endorse the transfer of the Council's Financial Assessment Teams and Appointeeship & Deputyship Team to Liberata which will generate savings in a full year of £121k p.a.**
- b) **Support the approach that the transfer of the Financial Assessment Teams takes place on 1st October 2014**
- c) **Support the approach that the transfer of the Appointeeship and Deputyship Team takes place on the 5th January 2015.**
- d) **Agree that consultation is carried out on the new Charging Policy for Appointeeship and Deputyship, as detailed in para 6.4 – 6.8 of this report and subject to no material changes being required as a consequence, delegate authority for implementation of the Policy to the Director of Finance in consultation with the Resources portfolio Holder**

Corporate Policy

N/A

Financial

1. Estimated cost Savings of £121k from outsourcing and £100k from Charging
 2. Recurring cost
 3. Budget head Exchequer Team
 4. Total budget for this head £1.7m
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Staff

1. Number of staff (current and additional) – 22.5 ftes (includes 3 staff to be retained as client)
 2. If from existing staff resources, number of staff hours -
-

Legal

1. No statutory requirement or Government guidance
 2. Call-in is applicable
-

Customer Impact

Estimated number of users/beneficiaries (current and projected) - N/A

3. COMMENTARY

- 3.1 The Council continues to face a period of unprecedented reductions in public funding, and over the next few years will need to identify savings in the region of £50 million to balance the revenue budget.
- 3.2 As part of meeting the Council's future years "budget gap" it is essential that officers consider alternative service delivery models which will maintain the quality of our services whilst at the same time provide financial savings. This report identifies the review work undertaken to explore savings.
- 3.3 Elements of the Exchequer Team have already been reviewed and outsourced in recent years with the payments team (24 staff), housing accommodation team (2 staff) and general income team (4 staff) moving across to Liberata in the last two years, which delivered financial savings of £93k p.a.
- 3.4 The remaining 22.5 ftes in the Exchequer Team undertake financial assessments for service users in receipt of social care, manage appeals and complaints from service users, look after the financial affairs for people deemed unable to manage their own finances and client management of the Exchequer contract with Liberata.
- 3.5 Initial discussions with Liberata indicated that savings of 20% could be realised by outsourcing the Financial Assessment Team and Appointeeship/Deputyship Team which would deliver savings in the region of £121k p.a.
- 3.6 There will be one-off set up costs of £80k from Liberata for transferring this service. This will be split between resource requirements of £47k, to cover the need for Project Management, HR Support, Transition Management and Facilities Management and £33k for the design, purchase, implementation and testing of the T kit for use by the team. This is particularly important given the scale of income that is generated by these teams (in excess of £20m p.a.) so it is important that the transfer of services goes as smoothly as possible.
- 3.7 Officers invited Liberata to undertake Health Checks on both services, which are now complete, and Liberata are still confident that these savings can be realised. One of the reasons for the 20% saving is because Liberata are keen to take on financial assessments as it complements the work they already do around housing benefit assessments and they can not only see the synergies between the services but also the potential to make efficiencies in the way staff work.
- 3.8 Outsourcing of this work should enable the Client Unit (3 staff) to focus on contract management and not have to deal with the day to day staffing issues that often impact on service delivery.
- 3.9 It will also allow the Exchequer Manager and Deputy Director of Finance to focus on the impact of the Care Act and changes that will need to be implemented to our existing charging policies. The Care Act will have significant resource implications for the Exchequer Team in the next year.

Financial Assessment Teams

- 3.10 The financial assessment teams are split into two teams, one responsible for all residential/nursing care assessments and the other for services such as domiciliary care, day care, Carelink, respite and direct payments etc. This is because service users going into residential/nursing care accommodation are charged under Charging for Residential Accommodation Guidance (CRAG) whereas those in receipt of other services are charged under Fairer Charging Guidance.
- 3.11 In total there are 13.92 ftes working in these teams, which includes 3.61 ftes visiting officers who go out to visit clients in their own homes to complete the financial assessments.
- 3.12 The teams generate income in the region of £20m p.a. which is shown within the Care Services Portfolio.

Appointeeship/Deputyship Team (A&D)

- 3.13 When service users become mentally incapacitated in some way, they will need assistance in managing their property and financial affairs. Sufficient support is often provided by family, friends or care workers, but when nobody is willing, able or suitable to take on the role, the Borough's Appointee and Deputyship Team may take on the work either by way of Court of Protection Deputyship or Appointeeship. Court of Protection Deputyship is the wider management of Service User's property and financial affairs. This authority is given, on application, by the Court of Protection under the Mental Health Act 2007 and the Mental Capacity Act 2005.
- 3.14 There are currently 5.58 ftes looking after the financial affairs of service users who are unable to manage their own financial affairs. The Executive Director of Education, Care and Health Services is appointed by the Court of Protection to make decisions for someone who is unable to do so on their own. The administrative duties associated with this work are carried out by the Appointeeship and Deputyship team, allowing us to charge for services they receive from us, which in the past might have had to be written off.
- 3.15 The staff are also responsible for Protection of Property and Community Funerals. Where there is no one who is available or willing to arrange a funeral, then the Local Authority has a legal duty to do so under Section 46(i) of the Public Health (Control of Disease) Act 1984.
- 3.16 Under the Act the Council is entitled to recover expenses incurred in carrying out its duties.
- 3.17 Under Section 48 of the National assistance Act 1948 the Council has a duty to take reasonable steps to prevent or mitigate the loss or damage to a person's property where the person is admitted as a patient to any hospital, is admitted to accommodation provided under Part III of this Act, or is removed to any other place under an order.
- 3.18 Under the Act the Council is entitled to recover reasonable expenses incurred in carrying out its duties.

4. LIBERATA

- 4.1 Officers have explored opportunities to provide service enhancements combined with financial savings and as a result there will be improved monitoring of changes in a client's financial position through the adoption of a risk based model for annual reassessments. The adoption of on-line banking for the management of the Appointeeship and Deputyship client's bank accounts will improve security and efficiency, along with greater flexibility for these same clients through the adoption of Payment cards to replace the current reliance on cheque payments when dealing with suppliers. The adoption and implementation of a charging policy for the services offered by the Appointeeship and Deputyship team, will recover additional; costs associated with providing the service for the Council. An overall review of business processes for both services will also result in improved working practices.

5. POLICY IMPLICATIONS

- 5.1 Partnership working is key to achieving the Building a Better Bromley 2020 vision and ensuring that service continues to be provided as efficiently and effectively as possible, in light of the financial position facing the council over the next few years.

6. FINANCIAL CONSIDERATIONS

- 6.1 Liberata already provide a number of services on behalf of the council, which includes running our revenues and benefits service, payroll services, council tax collection, payments & income recovery.
- 6.2 Liberata have guaranteed the council a total of £121,000 p.a. which they will generate through streamlining and simplifying operational processes. Providing a "one stop" service with clear accountability will provide savings through greater synergies with existing functions being undertaken by Liberata. To deliver this there are one-off set up costs of £80k relating to Project Management and IT costs etc.
- 6.3 It is proposed that the transfer takes place in two phases as set out at Appendix 1.

Charging Policy

- 6.4 Over the last few months officers have been exploring the options around a Charging Policy for the A & D Team to commence from August 2014. These are set out in detail in Appendix 2 and will generate additional charges of around £100k p.a.
- 6.5 Only a few local authorities (Croydon being one) charge for acting as an Appointee. Section 1 of the Localism Act 11 creates a general power of competence for local authorities to do anything that individuals generally may do. Where there isn't a specific charging power available, Section 3 of the 2001 Act makes provision for local authorities to charge for services using the general power of competence in line with the charging powers set out in Section 93 of the Local Government Act 2003. The reason many local authorities have chosen not to charge is because the DWP's Guide for Agents, Appointees and Attorneys says "You must not take a "fee" or "pay" for acting as an appointee".
- 6.6 Officers have continued to challenge our right to charge for this service and at a recent meeting of the members of the Association of Public Authority Deputies (APAD) it was agreed that Counsel's advice on this subject would be sought.

- 6.7 If members decide not to charge for the appointeeship work the income generated will reduce from £100k to £60k p.a.
- 6.8 Officers will use the Bromley website and MyLife site to update service users on the new Charging proposals and liaise with the voluntary sector and external advocacy groups to seek their views. At the same officers will advise and consult relevant in-house social care staff.
- 6.9 The table below sets out the financial implications of the proposals in this report, which assumes a transfer date to Liberata of 1 October 2014 for the Financial Assessment Team and 5 January 2015 for the A&D Team:-

	Part Year 2014/15	Full Year 2015/16
	FTE's	£'000
Bid from Liberata		
Financial Assessment Team	13.92	173
A & D Team	5.58	40
One-off Set Up Costs - Liberata	-----	80
	19.50	293
 Less 2014/15 LBB Budget		
Financial Assessment Team		214
A & D Team		49
Saving from Outsourcing		30
Additional Income from Charging		-60
Net Saving		-221

- 6.10 As you will see from the table above the proposals outlined in this report will generate a saving of £30k in this financial year, after allowing for set up costs of £80k, and full year savings of £221k p.a. from 2015/16.

7. PERSONNEL CONSIDERATIONS

- 7.1 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 will apply to these proposals. Currently there are 22 people employed within the combined teams who will TUPE across to Liberata if members agree to the proposals outlined in this report.
- 7.2 All 23 members of the team, including one agency worker, have been consulted on about the proposals in this report in accordance with the 2014 TUPE regulations. A copy of the document was sent to the staff concerned and staff representatives on the 17 June 2014. Staff were asked to feedback any comments or concerns that they had regarding these proposals to the Deputy Director of Finance by the 16th July 2014 so that these could be addressed. As the consultation period does not end until the 16th July, the issues raised and response by the Deputy Director of Finance will be tabled at Committee. The Council will continue to inform and consult both staff and their representatives on the proposals up until the date of the proposed transfers as outlined in paragraph 6.5. above.

7.3 The TUPE Regulations will preserve/protect the terms and conditions of these 22 employees transferring to Liberata, which means that their contracts of employment will remain the same including continuity of service.

8. LEGAL CONSIDERATIONS

8.1 The procurement process which led to the appointment of Liberata enabled certain additional services to be included within the contract without the need for competition and the services to be transferred are within that range.

8.2 An application by Liberata UK Ltd for an admission agreement under the Local Government Pension Scheme Regulations to enable staff who transfer under TUPE arrangements to participate in the Council's Pension Scheme has previously been agreed.

8.3 On the charging policy then as is outlined in the body of the report a combination of the general power of competence in section 1 of the Localism Act 2011 and the general charging power in section 93 of the Local Government Act 2003 give a general power to charge. However the power is not without limitation. Firstly the council must not be under a statutory duty to provide the service. Secondly the person receiving the service must have agreed to it being provided. Thirdly there must be no other power to charge for the service. Even where these three conditions are met a council can only recover the costs associated with providing the service and taking one financial year with another the charges cannot exceed the cost of provision.

8.4 Where service changes of this nature are made there is an expectation that a consultation exercise will be carried out. Given the general capacity issues of the individuals who access the service then it is recommended that in addition to a consultation on the council's website, there is also consultation with relevant social care sated and potentially advocacy organisations for affected individuals.

8.5 Individuals who will be affected by the charges will by definition be individuals with protected characteristics for the purposes of the Equality act 2010. The proposal is to a significant extent designed to ensure that such individuals have access to an efficient and cost effective service. However the final decision maker is advised to ensure that due regard is given to the equality obligations under the act.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	Files held in Finance and Exchequer sections