

**EDUCATION PDS COMMITTEE**  
**2<sup>nd</sup> July 2014**

**ORAL QUESTIONS TO THE EDUCATION PORTFOLIO HOLDER**

**Oral Questions for the Education Portfolio Holder received from Rosalind Luff, Chair - Bromley Parent Voice**

1. During September consultation Councillor Wells suggested professionals may be TUPE transferred and still be contracted to provide support. Bromley Parent Voice questions where there is a cost saving in this strategy, as the process of commissioning contracts takes time and costs money, with providers requiring a profit? Cost over quality may prevail.

***Reply:***

*The purpose of market testing is to determine whether value for money and outcomes for children and young people could best be achieved via delivery of the services by another organisation, which could include not for profit organisations, or by the Council itself.*

*All proposals will be evaluated on a combination of cost and quality criteria.*

*The market testing process will establish whether TUPE (the Transfer of Undertakings (Protection of Employment) Regulations) would apply and the financial implications arising from this.*

**Supplementary question:**

Parents are anxious that there would be a loss of continuity in services and staff if services were contracted out. How is it value for money when it costs more to commission services?

***Reply:***

*The Local Authority has a commitment to ensuring special educational needs services are of a high quality. As these services are delivered by a range of providers, including private providers, it is reasonable that market testing should be undertaken on a regular basis to ensure that services are of a high quality.*

2. The Children & Families Act places new duties on the LA (including the joint commissioning with health) which in turn may dramatically change the workforce landscape. Such changes are yet to be fully identified so would market testing be appropriate at this time?

***Reply:***

*Market testing will take several months before a recommendation for a decision on the outcome will be considered and will need to be flexible to*

*accommodate any policy or legal statute developments that arise during that time. However services are delivered in the future, they will always need to shift and adapt to new policy and legislation.*

**Supplementary question:**

The Children and Families Act 2014 will be implemented in September 2014. As this may dramatically change the workforce landscape, is it possible to fully market test services in such a shifting landscape?

**Reply:**

*As the Children and Families Act 2014 will be implemented in September 2014, now is the best time to market test and consider how services can best be delivered into the future.*

3. *Local authorities **must** consult children with SEN or disabilities, their parents, and young people with SEN or disabilities in reviewing educational and training provision and social care provision and in preparing and reviewing the Local Offer. Please outline how members propose to include the above within this market testing.*

**Reply:**

*This duty upon the Local Authority is emphasised within the report under consideration. The process of market testing does not affect the Local Offer. If any changes to services relevant to the Local Offer are proposed in the future, either arising through the ongoing process of service review or as a proposed outcome of the market testing process, then this would be supported by appropriate engagement with stakeholders in accordance with the SEN Code of Practice. It should be noted that a change in provider does not necessarily mean that the Local Offer or the educational provision provided to children with SEN or disabilities will change.*

*In the event of delivery of Education Services by another organisation, subject to the outcome of market testing, they in turn will be expected to review the Local Offer as required by the SEN Code of Practice and engage with children and parents appropriately in doing so.*

**Supplementary question:**

Can Members provide reassurance that families receiving services will be fully involved in the consultation process around any changes to the services they receive?

**Reply:**

*The SEN Code of Practice gives provision for full consultation to be undertaken where required. There are no plans to make any changes to the Local Offer at this time.*

## **Oral Questions for the Education Portfolio Holder received from David Strawson**

1. How will the outsourcing of services (including market testing) meet the Council's legal obligations under Section 24 (education) of the Convention of people with disabilities?

### **Reply:**

*There is no proposal to outsource services being considered by the Council at this time. The proposal is to market test services, the purpose of which is to determine whether value for money and outcomes for children and young people could best be achieved and sustained via delivery of the services by another organisation or by the Council itself. Once proposals are received they will be evaluated and it is only at that stage that Members of the Council will decide how the services will be delivered in the future.*

*The process of market testing therefore has no impact on the Council's legal obligations referred to in the question.*

*The legal obligation - the right of all disabled learners to participate in mainstream and special school education with appropriate support – will continue to be met by the Council regardless of how services may be delivered in the future.*

### **Supplementary question:**

Since the key to successful integration for children with special educational needs and disabilities is for education, care and health services to work seamlessly together, how can this be evaluated if these things are not being market tested together?

### **Reply:**

*Should the decision be taken that certain services should be outsourced, it will be key for partnership arrangements to be brokered with health and care services. The proposal to market test services as a 'bundle' is expected to support the close working of education services. No decision has been taken to outsource any services at this time.*

2. What and how will the success criteria of the market testing and eventual outsourcing be agreed and how will the Local Authority ensure the needs of the children and families are met?

### **Reply:**

*As per my response to the previous question, no assumption can be made as to the outcome of market testing so outsourcing is not a predetermined outcome as the question seems to imply.*

*Proposals submitted via the market testing process are evaluated using the method identified in the CIPFA Standing Guide to the Commissioning of Local*

*Authority Work and Services 2004, which sets out a methodology that takes into account price **and** quality. At Bromley the standard split between these 2 elements is 60% price and 40% quality. Evaluation criteria are developed, supported by advice and guidance from the Education Department, with a focus on outcomes for children and young people.*

*The Local Authority aims to ensure the needs of children and families are met through a constant process of reviewing needs, reviewing service delivery and monitoring performance against a range of key performance indicators. This will continue to be the case whether the provider of services is the local authority or any other provider.*

**Supplementary question:**

How can we be sure that the success criteria of market testing are valid if education, health and care services are not being tested together?

**Reply:**

*Education, care and health services are not linked at this time and the Local Authority is not in a position to market test care and health services. The bundle being market tested includes a number of education services. There will be a need to develop partnership agreements with care and health services into the future to ensure education, care and health services work seamlessly together.*

3. How will increases in funding demands (and shortfalls in budget) be met to ensure that services and support are delivered to children and families in a timely manner (ie without **any** delays)?

**Reply:**

*Increased demand and associated cost is managed via annual budget setting, ongoing budget monitoring and service review, prioritising and allocating resources within a finite budget. This is expected to continue to be the case whatever the outcome of market testing will be.*

**Supplementary question:**

*No supplementary question was asked.*