

**London Borough of Bromley
Education, Care and Health Services**

**Outcome of Consultation on
Recommendation to award a contract for 5+2 years for Direct Care Learning
Disabilities to the Southside Partnership**

The consultation period on the proposals for the recommendation to award a contract for 5+2 years for the Direct Care Learning Disabilities Services commenced on 26 May 2015 and concluded on 9 July 2015.

A document detailing the proposals and draft timetable for implementation was circulated to all staff affected directly along with staff representatives. Formal responses to the consultation document were invited.

Service Users and their carers were also informed of the recommendation.

Below is a list of formal questions received during the consultation, where appropriate these have been summarised, and responses from the management team.

**Response to Comments/Questions on recommendation to award a contract for 5+2
years for Direct Care Learning Disabilities to the Southside Partnership**

Staff Response	Management Response
1. Will there be any voluntary redundancies?	The Council is not proposing any voluntary/compulsory redundancies immediately before the proposal to award the contract the Southside Partnership. At this stage the Council is unable to comment on any potential redundancies that the Provider would be proposing. In the event that the Southside Partnership were to be awarded the contract they would be required to consult on their proposed measures and staffing structures.
2. Who has evaluated the providers tender and compared the outcomes to the current in-house model? (1.5) Has it been an external and objective consultant or has it been a subjective internal Bromley department?	The evaluation panel was made up of a variety of officers, including representatives from commissioning, the service (Assistant Director), Care Management, HR and Finance.

<p>3. How will the savings of £78K in 2015/16 and £225K per year thereafter be achieved? (1.7)</p>	<p>As per the committee report, the in year savings are likely to be closer to £33k as we have allowed for some one-off costs to ensure continuity and transition of services. The detail of how other savings will be achieved, will be subject to an award being made.</p>
<p>4. The visit to Astley [by Certitude/Southside Partnership] was not a dialogue it was a presentation. Could a date be set for staff to have a proper discussion with Certitude/Council/Union Representatives? (2.3)</p>	<p>I can confirm that the visit to Astley was intended to be a presentation of Southside Partnership's (certitude) vision and values. The presentation did not cover key commercially sensitive information for obvious reasons, but it complements the information given by the Council to staff and their representatives during the engagement process. In the event that the Executive decide to award a contract to Southside partnership (Certitude) then further meetings will be arranged, which will be part of the formal consultation process.</p>
<p>5. Review of organisational Structures; what are community hubs? What is 'wrap around service for Service Users? What is removing duplicated effort and unnecessary activities. (2.5)</p>	<p>Community hubs, are venues utilised within communities that can provide activities and support for service users, they are similar to Kentwood and Cotmandene.</p> <p>A wrap around service is a service that provides day opportunities for service users that may use our respite service but do not utilise our day services.</p> <p>Services delivered by a specialist provider mean they do not have to have wider consideration to the various other aspects of running a multiple set of services like a council.</p>
<p>6. What does staffing implications mean? (2.7)</p>	<p>If there are any staffing implications arising from any proposals this means that there may be proposed changes that will affect staff in one way or another. One change, for example, If the contract award goes ahead, would be a change of employer and in this case TUPE will apply. That is staff will transfer to the</p>

	Southside Partnership (Certitude) on their existing terms and conditions of service including continuity of local government service.
7. Can staff have their current contract terms and conditions protected beyond the point of transfer i/e/ until a member of staff leaves the service or retires? (2.10)	Please see response to question 6 above. However, the regulations allow for employers to consult with employees on making changes to these protected terms and conditions if these change arise from a change that relate to economic, technical or organisational reasons.
8. We have heard that private companies make staff pay for their own training.	Staff training and development programmes was a key aspect of the evaluation of the tenders. We are not aware that the recommended provider requires their staff to pay for training. If the Executive supports the recommendation staff and their reps may want to raise this question during the TUPE consultation process with the transferee.
9. We would like an out of hours consultation meeting.	Some of these services are 24 hour services, so for some staff and services there is no such thing as out of hours. An evening consultation meeting was provided. We will continue to be flexible in our approach to staff and trade union consultations.
10. What will happen to my pension if I am transferred to Certitude?	Staff will continue to contribute into the Local Government Pension Scheme.
11. What will happen to my annual leave if I am transferred to Certitude?	The current annual leave arrangements will remain under TUPE regulations.
12. How will clients be safe under a private provider?	The Council enters into a contractual arrangement that requires the provider to comply with statutory requirements under the Care Act in just the same way as an in-house service. Performance monitoring and quality assurance are built into the specification and the provider would be in default if they did not comply with these. The provider must be fully compliant with

	<p>safeguarding procedures. Safeguarding remains the ultimate responsibility of the Council.</p> <p>It is important to remember that the Council already contracts a significant amount of Adult Social Care provision (around 85%), and has established procedures in place for ensuring quality of providers of provision.</p>
<p>13. If an award is made, then a TUPE consultation is likely to take place when many staff are on holiday.</p>	<p>Management will continue to consult with staff up to the proposed date of transfer. As also stated above the Council will endeavour to be flexible with staff and trade union consultations.</p>
<p>14. Can Certitude handle the numbers of SU's involved?</p> <p>Certitude might have a sound concept and an appealing philosophy. But can they live up to your expectations, when taking on such a huge service? We have seen, how small providers were able to provide brilliant care, but failed to do so when they grew bigger</p>	<p>The Southside Partnership (Certitude) have gone through a robust evaluation process to be at this stage of the process. The evaluation team are confident that Certitude can provide a quality service to all our service users. In addition to this, as per the staff consultation, if an award is made, all staff are expected to TUPE to the provider, so capacity would not be affected.</p>
<p>15. Will DP's be adequate to provide a full day's service?</p>	<p>The service user would be able to use their direct payment in the way they wanted. It would be sufficient for a full day's activity and it will be important for services to make their activities sufficiently attractive for the service user to want to spend their DP on them.</p>
<p>16. What facilities are available in the community...are there enough?</p>	<p>Facilities for people with learning and physical disabilities in the community are improving all of the time. The Southside Partnership will utilise what is already available through our community and voluntary sector and be looking to champion and grow that offer as part of their service.</p>
<p>17. Care Managers are under a great deal of pressure. When can reviews be completed?</p>	<p>Assessments and reviews of service users remain a statutory duty of the Council and there are set procedures and</p>

	policies for care managers to follow.
18. How many “hubs” are there likely to be?	This will depend on need and circumstances, and it is envisaged the Southside Partnership (Certitude) will work with service users, their carers and staff to meet the eligible un-met needs of service users by providing the optimal hub solution giving the right level of coverage across the borough.
19. Is there an expectation that after 5 years the “transformation” will be complete?	Services should be evolving, developing and responding to change all of the time. It would be the Council’s expectation that a provider will work with the Council to meet any changing needs, as such it is difficult to determine a finite timescale for transformation.
20. What will happen when the contract comes to an end?	Like all contracts the Council would consider the future provision needs of the service users and any re-tendering options. All contracts the Council has make provision for re-tendering in relation to staff transfers.
21. Service Users have been told that they will continue to do what they do now. But some services are already being stopped as managers do not know if Certitude will be running services in September.	Service Users have been informed that for there is no change to their services. The issue raised regarding those service users attending a college course is due to staff ratios not the potential award of a contract.
22. Staff do not feel that consultation has been meaningful or enough information has been provided.	We believe the staff and trade union consultations to date have been reasonable, proportionate and meaningful. These consultations have been carried out pursuant to the Council’s managing change procedure. The formal consultations were also preceded by staff communications/engagements regarding the future of the service dating back to November 2013. The staff consultation document which was issued to staff on 26 May 2015 sets out the arguments for the proposal to transfer the service to Certitude. The right to know and the right to protect commercially sensitive information in a bidding process is not always compatible. Staff and their representatives were given reasonable

	<p>information to ensure meaningful consultation exercise. Every request or question from staff and their representatives has been addressed save for commercially sensitive information. If the proposal is approved by the Executive at its meeting on 15 July 2015 the service will be outsourced to Certitude on the application of TUPE. Ipso facto, it means that there is no material change to the service going forward. The transfer will of course be preceded by a separate TUPE staff and trade union consultation and thus enabling staff or their representatives to raise further questions with the transferee.</p>
<p>23. Will the money from the ILF be ring fenced for the use of people with disabilities in Bromley?</p>	<p>This is not a ring fenced grant. The Independent living Fund transferred to the Council from 1 July 2015, and it will be the Council's duty to assess clients' needs and meet those eligible needs, even if it exceeds the grant allocation.</p>
<p>24. Can you say how many full days a person gets covered, when he/she currently accesses the day services 5 days a week?</p>	<p><i>We have asked for clarification on this question.</i></p>
<p>25. The Care Act makes it clear that service users should have their say on what services the money is spent on. Why are you not consulting them about your plan to outsource the services to Certitude?</p>	<p>The Care Act promotes personalisation of services. For managed services (where the Council directly delivers or commissions services) the Council has a duty to provide a robust service that meets the needs of many. A direct payment accommodates those service users wishing to purchase their own care and support packages, and we support service users in doing this wherever possible.</p>
<p>26. Where are the minutes for the consultation meetings? We just wonder how you came away from them thinking that staff are happy.</p>	<p>The questions raised at the generic consultation meetings are recorded on this document and responded to by management.</p>
<p>27. You have told the union, that an alternative in-house model is not possible as we, the staff, apparently are unable to change</p>	<p>This is not factually accurate. The recommendation is that Certitude will be better placed to lead and manage any potential change having done so in other</p>

<p>because we lack the necessary skills to handle this changing area of work! Can you please explain?</p>	<p>local authorities, have access to a larger number of specialists than the council, as well as economies of scale that comes from only delivering specialised services.</p>
<p>28. Have you taken into consideration the "social value" an alternative in-house solution would have?</p>	<p>The council has a duty and due regard to the Social Value Act 2012, and as part of this process in addition to the usual technical questions in relation to company performance and quality measures, providers were also asked to detail, their skills and experience in delivering these services, approaches to the quality of care, evidence of working with other providers, to demonstrate their commitment to social values in their partnership arrangements, as well as how they promote service user independence and ensure quality through their commitment to staff training and development.</p>
<p>29. When there is already a preferred bidder, why is commercial sensitivity still relevant?</p>	<p>We cannot disclose the content of a final tender, as this is confidential to the provider. Publically disclosing their tenders, service models and pricing may put other organisations they compete against in other tenders at a commercial advantage.</p>
<p>30. What will happen to service users that cannot be accommodated in hubs?</p>	<p>This will be a matter for any future consultations about potential service changes, if an award is made.</p>
<p>31. Modern day services are far more staff intensive than traditional models, experts recommend a 1:2 ratio to enable learning and development and ensure safety and wellbeing. How will this be achieved on a reduced budget?</p>	<p>This will be a matter for the Southside partnership to consider, if an award is made. Providers staff rotas are considered as part of quality and contract compliance.</p>
<p>32. Taxpayers money will be given to Certitude to run the Day Service for 5-7 years. If a bank gave money to a new business, they would want to see a 7 year business plan. Where is the budget plan? How will the money be spent? How can we</p>	<p>The Southside Partnership have submitted a final tender, which has been evaluated by a team representing different areas of relevant professions.</p> <p>Their submission has been evaluated as meeting the outcomes the Council wishes to achieve over the next few years. A recommendation to award is not based on</p>

<p>rely on a verbal promise from the commissioning team, that all this is financially correct and feasible?</p>	<p>a verbal promise, but a substantial detailed proposal of meeting the service outcomes for a considerable period of time.</p>
<p>33. What will happen at the end of the contract? Continuity are extremely important for people with learning disabilities? It would be careless and very unfair to those individuals and their families to determine such short term planning, just because “changes happen” as Councillor Evans said</p>	<p>Various options are considered at the end of contracts, and this may include re-tendering for services needed in the future. Contracts also make allowances for service continuity between providers to minimise negative impact in service users and their carers.</p>
<p>34. The Scrutiny Committee report even encourages providers to subcontract, which has a knock on effect in areas such as:- pay and conditions, safeguarding, continuity of workforce and ultimate service delivery.</p>	<p>Sub-contracting arrangements are carefully managed in contracts, and it is the named provider that is accountable for delivery of services. In all cases the interest of service users is absolutely important to the Council and would ensure through the monitoring process that this interest is not compromised or undermined by the contractor.</p>
<p>35. There is a great likelihood that current experienced staff who know and really care about their Service Users will leave the service because they can't afford to work with and uncertainty to their pay and condition. Once TUPEd over there are no written guarantees. The evidence is clear within other boroughs that have privatised, salaries go down, conditions change, zero contracts are introduced. Staff on £8 the hour, with zero hour contracts and no experience won't be able to live up to your expectations.</p>	<p>If a contract award was made then the TUPE regulations would apply meaning that terms and conditions are protected subject of course to any Economical Technical or Organisation measures. More importantly, as stated above the monitoring process will look at the contractor's ability to adequately staff the contract thus ensuring the right quality of service is provided to service users.</p>

Unison Response	Management Response
<p>36. Why not keep the services in house as privatisation has already shown to fail?</p>	<p>An in-house option as considered, but given the budget savings that would need to be made, it was felt that this would not be achievable without affecting the current levels of service, which would have a detrimental impact on Service Users. Merging our Services with the Southside Partnership (Certitude), an established provider for adults with learning disabilities, will create economies of scale we as a Council could not achieve independently. A transfer of services may also provide new opportunities for Council staff that would otherwise not be possible.</p>
<p>37. How will it save the Council any money – the figures do not add up?</p>	<p>The report identifies an average saving per year for the lifetime of the contract, rather than an annual saving. The Southside partnership (Certitude) is a specialised provider, and as such this is their core business. They have experience of delivering these services in other locations successfully, and we are confident they have the resources to do so in Bromley.</p>
<p>38. Is the Council planning to sell off the Astley day centre in another property deal we are not being told about?</p>	<p>There are currently no plans for Astley in relation to property development. If the Southside Partnership are awarded this contract, the services will be transferred to them as they are including the provision from the Astley day centre. Like all council services, this will be subject to medium and longer term reviews. It would be a requirement and expectation that any service changes will be consulted on at the appropriate stages.</p>
<p>39. On a day to day basis we experience how important information is not passed on in service users homes, how appointment are missed or events not attended, because the staff on duty were not aware. Bromley Day Opportunities staff therefore have a function as gatekeeper's for the family members who</p>	<p>Any provider would have a duty to safeguard service users and report any incidences that may affect their well-being. If awarded the contract, the Southside Partnership who have the same duty of care to our service users.</p>

<p>otherwise won't find out their loved ones have not turned up for an activity or not had their breakfast. How will these issues be detected when there is no-in house service anymore?</p>	
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Unite Response	Management Response
<p>40. Is the Council planning to close Astley by February 2016?</p>	<p>There are no discussions to close the Astley Day Centre by 2016. The Council has been clear that it would like service models that move away from large building based centres, but there are no plans to achieve this without consultation with service users, carers and staff.</p>
<p>41. Are agency staff being recruited now to replace more expensive staff?</p>	<p>No, additional agency staff have been recruited to accommodate some additional service users.</p>
<p>42. Hub models are already being created by other organisations, which means this consultation is not meaningful.</p>	<p>There are likely to be many organisations developing a hub model approach, as this is considered best practice in supporting people living in the community. Whilst, those mentioned are not connected with this tender and are being established independently, the Council sees this as a positive step, as it promotes choice for our service users.</p>
<p>43. Is it the Council's view that the current staff do not have the skills and expertise to drive forward the innovation the staff consultation refers to?</p>	<p>No, this is not the Council's view. We have sought to work with a provider who has experience of doing this and leading this change in a coproduced way with service users, carers and staff. Given that the consultation sets out that TUPE would be applicable to all staff, it would be the same staff working in the services.</p>