
Meeting	General Functions Committee
Date	7 November 2012
Subject	Children's In-House Service Review: TUPE Transfer of Music Service staff to Charitable trust limited by guarantee
Report of	Director of Adult Social Care and Interim Director of Children's Services
Summary	This report relates to the transfer of the staff employed within Children's in-house Music Service to a charitable trust limited by guarantee. Staff will be transferred in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"), and the Council's TUPE Transfer Commitments.

Officer Contributors	Lynn Holman-Fox – Head of Music Service Rena Abraham – HR Business Partner Ruth Murphy – Project Manager
Status (public or exempt)	Public
Wards Affected	Not applicable
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix A – List of posts in scope for transfer to Charitable Trust Appendix B – Staff Equalities Impact Assessment
Contact for Further Information:	Lynn Holman-Fox, Head of Music Service on ext 6337

1. RECOMMENDATIONS

- 1.1 That the Director of Adult Social Care and Interim Director of Children's Services be instructed to take the necessary action to transfer the in-house staff employed within the Council's Music Service to the Charitable Trust in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and the Council's TUPE Transfer Commitments with effect from 01 February 2013.**
- 1.2 That the posts in scope for transfer be deleted from the Council's establishment with effect from 02 February 2013.**

2. RELEVANT PREVIOUS DECISIONS

Cabinet Resources Committee, 18 October 2012 agreed the following:

- 2.1 To authorise the Director of Adult Social Care and Interim Director of Children's Service to commence activities to create a new corporate entity that is able to register as a charitable organisation and deliver Music Service activities as Barnet's Music Hub.
- 2.2 To authorise the Director of Adult Social Care and Interim Director of Children's Service to commence activities to transfer the provision of the Council's Music Service to the new corporate entity in 2.1
- 2.3 That subject to final approval of the Chief Finance Officer of the terms of such guarantee, that the Council guarantees the liabilities of the new corporate entity to the Teacher's Pension Scheme and (if so required by the administering authority of the Fund) to the Local Government Pension Scheme, initially for a three year period and then subject to review.
- 2.4 That the Chief Finance Officer be authorised to approve the terms of the guarantee referred to in 2.3 above.
- 2.5 That the Director of Children's Service or his/ her nominee will be the nominated Council member on the Board of Trustees for the new corporate entity.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 To meet the Council's corporate priority of "Better services with less money" there is a strategic goal to keep prices affordable for all families and to utilise the Music Education Grant to ensure that all children are given the opportunity of initial free access to instrumental tuition.
- 3.2 A Successful London Suburb - The Music Service will continue to support Every School a Good School through a high quality offer of instrumental tuition, Continuing Professional Development (CPD), ensemble activity and extension activities.

- 3.3 Sharing Opportunities, Sharing Responsibilities - The new Music Service will seek to access charitable funds on behalf of the youth service to help support work with vulnerable groups of young people.
- 3.4 The TUPE transfer of the staff as part of the outsourcing of the Music Service to an independent charity will provide the service with an opportunity to sustain successful delivery through continued access to existing funding sources and through access to additional funding sources that are unavailable under the current arrangement. The access to additional funds and elimination of its responsibility to fund other services will increase the service's potential to develop further and provide more for the community.

4. RISK MANAGEMENT ISSUES

- 4.1 **Risk:** There is a risk of a reduction in staff morale leading to increased staff turnover, sickness levels and/or disruption to service delivery in the lead up to the transfer.
- 4.2 **Planned Mitigation:** Maximise staff engagement through frequent consultation meetings, group briefings, 1:1 meetings and regular communications. Ensure that any issues or questions that arise are dealt with in a timely manner. Monitor key HR performance indicators and listen to any staff concerns so that any issues arising can be addressed at the earliest opportunity.
- 4.3 **Risk:** There is a risk that LBB could be challenged over its handling of TUPE process.
- 4.4 **Mitigation:** Ensure that the statutory TUPE information and consultation process and the data transfer comply with the TUPE Regulations and best practice. Staff data will be verified for accuracy prior to transfer and will be transferred to the new organisation in a secure manner and will be managed in accordance with the Data Protection Act and ICO guidelines. An employee Equalities Impact Assessment has also been carried out at key milestones and, as it is a dynamic document, it is updated regularly to reflect how the council is addressing key issues.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Under the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regards to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy; maternity; race; religion or belief; sex; and sexual orientation. The duty to eliminate discrimination also extends to marriage and civil partnership.

5.2 As the transfer will have an impact upon staff, an Equality Impact Assessment has been undertaken and is attached as Appendix B. At milestone 1 (Outset) the indication is neutral impact. The profile of staff in scope broadly reflects the profile of the service as a whole. The profile of the staff within scope broadly reflect the profile for Directorate as a whole. All staff within scope will transfer to the new organisation. Therefore, it is not anticipated that any group of staff who share one or more of the protected characteristics will be adversely affected by the proposals. It is also unlikely that the profile will change in any significant way in the lead up to the transfer date. The Equality Impact Assessment data will be reviewed at Milestone 2 (Confirmation of in scope to transfer) and Milestone 3 (Post Transfer Review).

5.3 The Music Service relocated to Dollis Junior school on 23rd August 2012 which is within a 5 mile radius of North London Business Park. There have been no reported difficulties in staff locating to this site. It is not anticipated that there will be any further material changes in location of staff so this would not result in any equality impact.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 Staffing: There are currently 58 posts (27.76 FTEs) within scope. There are currently no vacancies.

6.2 A summary of the staffing breakdown is set out below:

Service Area	
Music Service	58 posts

6.3 There are 58 staff on a mix of permanent, temporary and seasonal contracts identified as being within scope. All staff have transfer rights to the new organisation under the TUPE Regulations. Staff have been engaged and informed from the start of the project and this will continue up to and beyond the point of transfer. Examples include TUPE workshops; staff presentations; monthly Staff Group meetings; weekly newsletters, and monthly employee surgeries. This activity will continue throughout the mobilisation period to ensure the new music company has the best possible foundations to enable success. Employees transferred will become employees of the transferee (the new Music Company) by virtue of the statutory novation of their employment contracts under the TUPE regulations.

6.4 A shadow board of the new proposed company will be formed on 26 November and will decide on the measures that they wish to implement post transfer. Following this, in addition to staff engagement, formal TUPE consultation will commence with Trade Unions and staff representatives on the new company's proposed measures if any.

6.5 Under the TUPE Regulations, existing contractual terms and conditions are protected on transfer and under the TUPE Transfer Commitments the Council implemented in the summer of 2011, all terms and conditions are protected for

at least a year including pension provision. Understandably, Pensions has been a key consideration and concern for staff and unions during the consultation process. A report will be considered by the Pensions Committee on 4th December 2012. The Committee would be requested to determine that new organisation (i.e. the charitable trust) will become Admitted Body to the Local Government Pensions Scheme, with respect to non-teaching staff, *under* a Community Admissions Agreement. The exact nature of the membership will depend upon legal and actuarial advice in the context of the Local Government Pension Scheme (Administration) Regulations, and legislation. From the staffing point of view, this will afford relevant staff the continued membership of the Local Government Pensions Scheme.

- 6.6 There are 83 members of the Teacher's Pension Scheme (TPS) within the Music Service – this includes casual workers who have elected to join TPS. The Teachers Pensions Regulations 2010 state provision of a bond or guarantee as an absolute condition which must be met for a company to be accepted as a function provider and therefore eligible to participate in TPS. The Department for Education have confirmed that the Council will be an acceptable guarantor. The alternative is for the new corporate entity to secure a commercial bond, but without any trading history it is expected that the costs would be prohibitive, if, indeed, it is possible for the new corporate entity to obtain cover at all under such circumstances (current market experience indicates that this may not be possible). CRC approved on 18th October that the Council would bear the financial risk as a guarantor for an initial three year period (and then subject to review) which will be essential to enable the Music Service to continue to provide to high quality music services locally.
- 6.7 The existing in-house service is supported by a flexible pool of 99 casual workers, who are engaged on an as when basis or via agency provision, driven by service need. This group of workers do not have formal transfer rights under the TUPE Regulations as they are not deemed to be employed under an employment contract. It is hoped that the casual workers would wish to work for new organisation. With their agreement, their details will be passed to new organisation, who will be able to make direct contract.
- 6.8 In the lead up to the transfer - in addition to meeting the consultation and information requirements of TUPE – the Council must provide the new organisation with the relevant 'employee liability information'. This information must be given at least fourteen days before the transfer or, if special circumstances make this not reasonably practicable, as soon as is reasonably practicable after the transfer. It is proposed that there will be full transfer of relevant data at the point of transfer to ensure that there is a seamless transition with minimal disruption to staff and service delivery.
- 6.9 Trade Unions and staff have been informed and engaged throughout the progress of this project. Their comments and views have helped shape the proposals. The Trade Union's full response (dated 16th July 2012), in which they expressed their concerns to the proposals and the Business Case, was considered by the Council Director's Group in August 2012 and the below are responses made to their five key points:

1. *Within the risk assessment there is no mitigation if the service fails financially despite having the budget scrutinised. The unions are concerned this risk along with potential loss of continuous service rights could put staff off applying for the service. If*

the London Borough of Barnet does outsource the Music Service the unions believe to overcome these risks and to maintain the quality of staff it should keep the staff employed by the London Borough of Barnet and second them to the Music Service.

Response

It is acknowledged that as a separate entity, the proposed service will not have the same support as that of a service that sits within the Council.

HR has advised Unions that this is a service transfer, therefore TUPE applies. As a result secondments would not be appropriate.

2. *Although this is business case by the London Borough of Barnet it has only looked at the impact on the Music Service. The report says that the Music Service funds other (unstated) services. The business case has not considered the impact on these services from the loss of income.*

Response

The £40,000 per annum pressure has been identified and incorporated into the Business case and CRC Report. The costs will be contained within the Children's Service.

3. *The relocation is not part of this business case as it will have taken place whether the service remains with the London Borough of Barnet or not and definitely before any outsourcing of the service.*

Response

The relocation has been removed as a deliverable for this project and is now referenced as background information.

4. *There is concern that the projected savings rely on saving on accommodation costs but there is no statement of how this will be achieved. The savings also rely on using other providers and there is experience that the quality of the support will drop.*

Response

The financial models are based on like for like provision of support services through the Council's Traded Services. While the Council's Traded Services may not be used, basing the models on this provision provides a degree of both cost and quality certainty.

5. *Some of the reasons quoted relate to poor processes in the council e.g. web marketing and parking. Outsourcing is not the way to deal with these and they need to be addressed for all services.*

Response

The business case for outsourcing the Music Service does not revolve around a release from the constraints of operating within a local authority. However, there are clearly reasons that this would be of added benefit to the Music Service.

- 6.10 The success of the transfer will be significantly dependent upon the engagement of the transferring Council staff and the corporate culture of the new organisation. Twice monthly staff briefings have been scheduled over the transition period. This activity will continue throughout the transition period to ensure that new organisation has the best possible foundations to enable its success.
- 6.11 The Council will continue to meet all of its statutory and contractual obligations with regard to change and its impact upon the Council's staff. All internal

restructures will be managed in compliance with the Council's Managing Organisational Change Procedure and where the change results in a staff transfer (as in this case) the council will meet all of its statutory obligations under TUPE and in accordance with its TUPE Transfer Commitments.

Finance

6.12 New arrangements for the funding of Music Services came into place from August 2012. Grant money that has to date been provided direct to the Music Service will now be provided to the Music Hub. The Arts Council has accepted the Music Service's bid with the expectation that the delivery model will change. If the Music Service does not implement a change in its delivery model, the service will ultimately lose its direct funding.

6.13 Transformational/ Implementation Costs

In total, the project is expected to cost **£39,500** to deliver. This has been established through investigations and lessons learned during phase 2 of the Assessment Stage and will cover Legal, HR, Project Management, Investigations and Set Up costs. The £39,500 will be contained within the funding envelope below.

Funding Source	Amount
Contained Within Existing Music Services Budget 2012/13	£15,000
Contained Within Overall Schools and Learning Division Budget 2012/13	£24,500
Total	£39,500

6.14 Ongoing Finances

The provision of the Music Service by a new, separate entity to the Council will result in a reduced annual income for the Council of £40,551 from 2013/14 onwards. This reduction in income will be funded from the Children's Service. For 2012/13 the expectation is that the Music Service will achieve its income target (pro-rata amount from April 2012 to the date of the transfer amounts to £30,410)

By delivering the Music Service as a separate entity, the service in its new form is expected to operate at a net surplus. This is detailed in the table below.

	MUSIC NEWCO 13/14 BASELINE	MUSIC NEWCO 14/15 BASELINE	MUSIC NEWCO 15/16 BASELINE
	Year 1 (15 months) - Annual Costs	Year 2 - Annual Costs	Year 3 - Annual Costs
INCOME			
Grants	-£537,988	-£458,652	-£488,652
Customer/Client Receipts	-£1,382,616	-£1,086,341	-£987,582
INCOME TOTAL	-£1,920,604	-£1,544,993	-£1,476,234
EXPENDITURE			
Employees	£1,649,843	£1,304,739	£1,229,066
Transport	£4,336	£3,469	£3,469
Premises	£76,250	£61,000	£61,000
Sales Related	£30,625	£24,500	£24,500
Supplies & Services	£128,718	£100,845	£99,845
EXPENDITURE TOTAL	£1,889,772	£1,494,553	£1,417,879
Net EXP / (INC) TOTAL	-£30,832	-£50,440	-£58,355

The provision of the Music Service as part of a charitable organisation will enable access to additional sources of funding that are currently unavailable under the current arrangement.

The provision of the Music Service by a new, separate entity will eliminate the Music Service's responsibility for the generation of income to support other areas of the Council. This potentially releases £40,551 per annum which can be spent on front line Music Service Provision.

Following transfer, the Music Service will become directly responsible for procurement and payment for its own support services that currently appear as "below the line" costs. The costs for these elements have been identified and incorporated into the financial models.

Pursuant to the decision of CRC on 18 October 2012, the Council will act as guarantor for the liabilities of the new corporate entity to the Teacher's Pensions Fund and the London Borough of Barnet Local Government Pension Scheme for a period of 3 years. This covers the eventuality whereby the new Music Service is unable to pay pension contributions in the event of financial distress. The maximum exposure under this arrangement is estimated to be £131,000 (£100,000 for Teacher's Pensions and £31,000 for LGPS). This will be contained within the Children's Service budgets.

Property/IT

6.15 There are no property issues to report

Procurement

6.16 There are no procurement issues to report

7. LEGAL ISSUES

7.1 Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

TUPE is an example of European Union (EU) law, which by virtue of membership of the EU obliges each Member State to introduce its own domestic legislation which implements the broad principles set out in the EU legislation (generally known as Directives). TUPE applies to a transfer of an undertaking, business or part of an undertaking or business situated immediately before the transfer in the United Kingdom to another person where there is a transfer of an economic entity which retains its identity.

7.2 In circumstances where TUPE applies, the employees transferred will become employees of the transferee (the new charitable trust in this case) by virtue of the statutory novation of their employment contracts under TUPE. This means that, in most respects, employees are entitled to the same terms and conditions of employment after the transfer as they had before it.

7.3 Pensions

One of the principal provisions of TUPE is that the pre-transfer liabilities relating to the relevant employees are transferred to the new employer; this includes any contractual obligation to contribute to an employee's individual or group personal pension plan (as opposed to an *occupational* pension scheme).

7.4 Under Regulation 10 of TUPE, provision of an occupational pension scheme is excluded from the transfer. This means the new employer has no obligation to provide the same or equivalent occupational pension rights for employees. However, the Pensions Act 2004 provides certain employees with a minimum level of protection in the event of a TUPE transfer. This is effected by means of the Transfer of Employment (Pensions Protection) Regulations 2005.

7.5 Employees eligible for protection

Employees involved in a TUPE transfer will be eligible for protection where:

- the employee is (or is eligible to be or would have been eligible to be) an active member of an occupational pension scheme in relation to which the transferor (i.e. the Council in this case) is the employer; and
- where the scheme provides money purchase benefits, the transferor is required or is not required but has made one or more contributions or, would be required had the employee been an active member to make contributions to the scheme in respect of the employee.

7.6 Staff in the Public Sector

The Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 applies directly to transfers involving central and local government departments and the NHS. It provides that TUPE is guaranteed to apply to these transfers. Annexed to the Statement of Practice is "A Fair Deal for Staff Pensions". This provides that the transferee (i.e. new employer) must provide transferring employees with "broadly comparable" pension benefits.

7.7 **The Duty to Inform and Consult**

Where employees are transferred from one employer to another under TUPE, both the old and the new employer have duties to inform and potentially consult with appropriate representatives in relation to any of their employees who may be affected by the transfer or by measures taken in relation to it. If the employer recognises a trade union, they must consult with that union; if not, employee representatives must be elected if they do not already exist.

7.8 **Duty to Inform**

Employees who might be “affected” by the transfer may include:

- Individuals transferred from the transferor (the Council in this case) to the transferee (the new charitable trust in this case).
- Individuals who don't transfer but whose job might be affected by the transfer.
- The transferee's employees whose jobs might be affected by the transfer (not relevant in this case).

The new and old employers are obliged to inform the representatives of their respective affected employees in writing of:

- The fact of the transfer, the date, and the reasons for it.
- The legal economic and social implications of the transfer for the affected employees.
- Whether the employer envisages taking any action (e.g. reorganisation) which will affect the employees and if so what action is envisaged.

Where the out-going employer is required to give the information he or she must disclose whether the prospective new employer envisages carrying out any measures which will affect the employees and if so what. The new employer must give the out-going employer the necessary information so that the out-going employer is able to meet this requirement.

“Measures” means, for example, changes to terms and conditions, grading or other structures or the declaration of redundancies. It will include any action, step or arrangement in connection with the transfer. Usually it requires the new employer to have formulated some definite plan or proposal

7.9 **Duty to consult**

Unlike the obligation to inform, the obligation to consult will not arise on every relevant transfer. The out going employer and the new employer will only have a duty to consult the representatives if either anticipates that it will take “measures” in relation to any of its affected employees which are connected with the transfer.

The consultation must be with a view to seeking the agreement of the employee representatives to the measures to be taken. There is no requirement actually to reach an agreement. At the least, the employer must give the representatives the opportunity to make representations about the measures being taken; consider and respond to any representations made and if any of these are rejected state the reasons for this.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution Part 3 Section 2 – Responsibility for Council Functions General Functions Committee discharges Council's functions not reserved to Council including staff matters. Restructures which have major implications including changes to contracts of employment and proposals involving major changes in working practices and location of employees must be submitted to General Functions Committee for approval.

9. BACKGROUND INFORMATION

Background

- 9.1 The Music Service is a traded service of the Local Authority which brings in approximately £1.6 million per annum from grants, instrument hire and lesson fees from parents & schools. £40,551 of the income is used to fund other Council Services and the remaining income is used to fund delivery of the music service.
- 9.2 Children are currently offered an initial period of free instruction which is paid for from the music grant. After the initial period of free instruction, parents will normally book lessons for a fee. The Music Service has planned for an approximate 25% reduction in income over the next three years, partly due to reducing household income resulting in fewer children continuing lessons after the initial free period of instruction. A £128,000 reduction in parents paying for lessons has already been identified during 2011/2012.
- 9.3 In order to cater for children from families who will be unable to afford tuition, the Music Service would like to be in a position to raise charitable funds and apply for grants from other sources (including gift aiding membership fees). This is not an option under the current arrangement.
- 9.4 The government has published the National Music Plan and arrangements for the funding of Music Services. The government expects the main provider of music education services in any locality to become a music hub, responsible for brokering all grants and music education in a local area.
- 9.5 The Music Service has recently been successful in a bidding process for applications to receive "Hub Status". The acceptance by the Arts Council, means the Music Service will be eligible to receive the funding. The Arts Council expect new and creative models to be implemented for the delivery of the hubs and have accepted the bid on the basis that the service will implement a new company vehicle which allows greater access to funds and an increase in percentage income spent on front line delivery.
- 9.6 This project is now required to gain approval for a change in direction away from the current service model and implement a new model so that the Arts Council will continue to fund the service and to position the Music Service so that it is eligible to receive funding from other sources.

9.7 Members are asked to instruct the Director of Adult Social Services and the Interim Director of Children's to transfer the staff, who are in scope at the go-live date, from the Council to the new organisation and to delete their posts from the Council's establishment structure following the transfer date. The full list of posts is set out in Appendix A of this report.

10. LIST OF BACKGROUND PAPERS
None

Cleared by Finance (Officer's initials)	MC/JH
Cleared by Legal (Officer's initials)	PJ

Appendix A – List of posts in scope for transfer to new organisation

Position	Post No	Reason for deletion
Music Teacher	50008683	Transfer
Teacher	50007184	Transfer
Music Teacher	50008671	Transfer
Deputy Head of Music Service	50008640	Transfer
Teacher	50054310	Transfer
Teacher	50007261	Transfer
Teacher	50054311	Transfer
Music Teacher	50008657	Transfer
Administrative & Database Assistant	50028223	Transfer
Music Teacher	50008668	Transfer
Music Teacher	50008681	Transfer
Supply Music Teacher	50101563	Transfer
Teacher	50007267	Transfer
Music Teacher	50076072	Transfer
Supply Music Teacher	50076074	Transfer
Music Teacher	50076239	Transfer
Supply Teacher	50003204	Transfer
Music Teacher	50008590	Transfer
Music Teacher	50080974	Transfer
Instrumental Teacher	50109788	Transfer
Instrumental Teacher	50099821	Transfer
Teacher	50001573	Transfer
Teacher	50007175	Transfer
Head of Music	50007177	Transfer
Teacher	50007178	Transfer
Music Teacher	50008641	Transfer
Music Teacher	50008626	Transfer
Teacher	50007230	Transfer
Music Teacher	50008659	Transfer
Teacher	50007188	Transfer
Admin Assistant	50028224	Transfer
Peripatetic Instrumental Teacher	50007191	Transfer
Head of Music Curriculum	50007196	Transfer
Music Teacher	50008661	Transfer
Music Teacher	50008596	Transfer
Teacher	50001120	Transfer
Deputy Head of Music Service	50007206	Transfer
Deputy Head of Music Service	50007208	Transfer
Music Teacher	50008576	Transfer
Music Teacher	50008654	Transfer
Teacher	50007215	Transfer
Teacher	50007256	Transfer
Music Teacher	50008647	Transfer
Music Teacher	50008644	Transfer
Music Teacher	50008607	Transfer
Music Teacher	50008605	Transfer
Teacher	50007250	Transfer
Music Teacher	50008619	Transfer
Music Teacher	50008623	Transfer
Music Teacher	50008666	Transfer

Teacher	50007260	Transfer
Teacher	50054312	Transfer
Teacher	50007269	Transfer
Teacher	50007270	Transfer
Teacher	50007280	Transfer
Teacher	50007281	Transfer
Music Teacher	50016885	Transfer
Teacher	50006272	Transfer

Appendix B - Equality Impact Assessment

The Music Service – Employee Equality Impact Assessment

Future Provision of Music Service

[This document remains live with information being added at each critical milestone]

Project Sponsor:	Mick Quigley
EIA Owner:	Lynn Holman-Fox
Date process started:	9 December 2011
Date process ended:	

This EIA is being undertaken because it is:	<input checked="" type="checkbox"/> outlined within the equality scheme relevance assessment table <input checked="" type="checkbox"/> part of a project proposal submission to the programme management board <input type="checkbox"/> a result of organisation change <input type="checkbox"/> other – please specify:
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EIA Contents

- 1 Introduction
- 2 Any Anticipated Equalities Issues at each milestone and identified mitigation
- 3 Monitoring Summary
- 4 Project Milestone Outcomes, Analysis and Actions

1. Introduction

1.1 Aims and objectives of the transformation programme

The Music Service project is part of a larger transformation programme for the London Borough of Barnet.

At the heart of this strategic transformation programme is one clear aim – to become a council focussed on the needs of citizens ensuring that our residents can lead successful and independent lives. It is also the council's response to address several drivers for change that have been identified:

- The financial pressures resulting from the global recession has brought the era of consistently increasing public sector budgets to an end. Within the council there is a funding gap of £53m over the three years 2011/12 to 2013/14, and our public sector partners face challenges of a similar scale.
- Despite consistent improvements in service delivery, satisfaction with Barnet Council, as with other local authorities, has been on a consistently downward trend.
- Digital technology continues to change and develop, as do the ways that people use it to change and grow. Residents will continue to expect us to deliver against those standards of instant information and access to services.
- Our identification of the need to develop a new partnership with our residents to deliver services in future is echoed by the Coalition Government's focus on a Big Society.
- The Government's focus on localism and devolution sets a national context for our aim to provide local leadership and join up services across the public sector.

The council believes that the transformation programme is best delivered through the adoption of the three key principles:

- **A new relationship with citizens** - Enabling residents to access information and support and to do more for themselves
- **A one public sector approach** - Working together in a more joined up way with our public sector partners to deliver better services
- **A relentless drive for efficiency** - Delivering more choice for better value

1.2 Future Provision of Music Service

The aim of this project is:-

- to enable the Music Service to continue delivering a high quality music offer to all young people on behalf of the London Borough of Barnet (with and agreed SLA).
- To improve community cohesion through targeted work with hard to engage groups of young people. This will include working closely with schools and the youth service to identify such groups and their needs.
- To allow the Music Service to reach out to a more diverse range of Barnet residents through initiatives such as the gifted and talented fund. This would allow gifted children on free school meals to receive a free individual lesson therefore providing fairer progression routes.
- To maintain a highly regarded Music Service for Barnet that Members, Residents and Officers can be proud of.
- To enable access to charitable grant giving bodies (such as John Lyons and Jack Petchey who will not fund local authority services directly), this will allow bids to access funds for extension activities including work with the youth service (which is facing cuts in funding)

1.3 Scope of the project

The whole of the Music Service is included within the scope of this process. This is primarily the provision of music tuition.

The Music Service is a traded service of the Local Authority which brings in approximately £1.6 million per annum from grants, instrument hire and lesson fees from parents & schools. £40,551 of the income is used to fund other Council Services and the remaining income is used to fund delivery of the music service. It currently employs 58 employees and around 99 casuals.

1.4 Description of the critical milestones

- Initial EIA on staff likely to be in scope carried out – the business case and the financial model identifies those in scope and out of scope.
- Confirmation of in scope to transfer
- Post-transfer review

1.5 Key Stakeholders

The key stakeholders of this EIA process are the employees and the managers within the project's scope.

2. Any Anticipated Equalities Issues at each milestone and identified mitigation

2.1 Milestone 1 – Outset

To start early discussions – in advance of the measures consultation – about the individual implications of a change in location.

In addition actions look at the impact of the project on the following amongst other potential factors:-

- Flexible working arrangements and impacts on service users
- The impact of staff changes to their working culture
The impact on staff of a new service delivery model

2.2 Milestone 2 – Confirmation of in scope to transfer

To do

2.3 Milestone 3 - Post Transfer Review

To do

	include people whose visual problems can be corrected by glasses/contact lenses)	2	0.07%	0	0.00%				
	Reduced physical capacity (such as inability to lift, carry or otherwise move everyday objects, debilitating pain and lack of strength, breath, energy or stamina, asthma, angina or diabetes)	10	0.35%	0	0.00%				
	Learning difficulties (such as dyslexia)	7	0.25%	**	**				
	Mental illness (substantial and lasting more than a year)	6	0.21%	0	0.00%				
	Mobility (such as wheelchair user, artificial lower limb(s), walking aids, rheumatism or arthritis)	7	0.25%	0	0.00%				
	Other disability	39	1.38%	0	0.00%				
	No disability	0	0.00%	57	98.28%				
	Not stated	2741	97.27%	0	0.00%				
	Transsexual/Transgender (people whose gender identity is different from the gender they were assigned at birth)	0	0.00%	0	0.00%				
	Not stated	0		0	0.00%				
Pregnancy and Maternity	Pregnant but not yet on maternity leave (MatB1)	0	0.00%	0	0.00%				
	Maternity Leave (current) (SMP & OMP)	0	0.00%	0	0.00%				
	Returned from Maternity Leave (in last 12 months)	0	0.00%	0	0.00%				
Religion or Belief	Christian	1335	47.37%	28	48.28%				
	Buddhist	13	0.46%	**	**				
	Hindu	177	6.28%	0	0.00%				
	Jain	11	0.39%	0	0.00%				
	Jewish	87	3.09%	**	**				
	Muslim	117	6.28%	0	0.00%				
	Sikh	13	0.46%	0	0.00%				
	Other faith religions	101	3.58%	**	**				
	No religion	461	16.36%	**	**				
	No response on faith	223	7.91%	**	**				
	No form returned	32	1.14%	0	0.00%				
	Atheist	42	1.49%	0	0.00%				
	Agnostic	33	1.17%	**	**				
	Humanist	5	0.18%	**	**				
Not assigned	168	5.96%	13	22.41%					
Sexual Orientation	Heterosexual	1956	69.41%	25	43.10%				
	Bisexual	9	0.32%	**	**				
	Lesbian or Gay	37	1.31%	0	0.00%				
	Prefer not to say	553	19.62%	16	27.59%				
	Not assigned	263	9.33%	16	27.59%				

Marriage and civil partnership	Married	911	32.33%	18	31.03%				
	Single	675	23.95%	17	29.31%				
	Widowed	16	0.57%	0	0.00%				
	Divorced	77	2.73%	**	**				
	In Civil partnership	8	0.28%	0	0.00%				
	Cohabiting	39	1.38%	0	0.00%				
	Separated	11	0.39%	0	0.00%				
	Unknown	1076	38.18%	20	34.48%				
	Not assigned	5	0.18%	0	0.00%				
Relevant and related grievances									
	Formal								
	Upheld								
	Dismissed								

4. Project Milestone Outcomes, Analysis and Actions

4.1 Outset data

The proposed transfer of the Music Service will place 27.76 FTE members of staff in scope to TUPE transfer to the new Music company. This transfer will be a TUPE transfer pursuant to the TUPE Regulations 2006. In addition to the employment protections provided by the TUPE Regulations, the Council's TUPE agreement will apply to this transfer and will form part of the contract between LBB and the new Music Company. The main protections are:

- Terms and Conditions may not be changed in the first year after transfer
- In scope employees to remain within LGPS or Teachers Pensions
- Continuation of current Trade Union Representation
- A central Trade Union facility pot

The analysis of the data at Section 3 when compared against the profile of the Council shows that there are material differences (> 5%) for the following characteristics:

Females, Males, Ethnic Groups: White British; Asian and Asian British: Indian; Black or Black British: African; Religion or Belief: Sikh; Sexual Orientation: Heterosexual (although there were a significant number who preferred not to say or did not declare); Marriage and Civil Partnership: Single. The majority of staff in the Music Service have declared themselves to have no disability.

The reason for this is because of the profile of those in scope – it is not about how the 'in scope' list has been drawn as all staff within the Music Service have been identified as in scope at the outset.

The service has recently moved location to Dollis Junior School which is within 6 miles from North London Business Park. There have been no reported equalities issues identified as a result of this move.

4.2 Actions proposed

There are none anticipated at present

5. Briefing, Sharing and Learning

The below table summarises the key milestones and briefing activities.

Milestone	Document	Audience	Date
Approval of Full Business Case.	Embargoed Full Business Case	Trade Union representatives	10/07/12
	Full Business Case & CRC report	Council Directors Group	14/08/12
		Trade Unions	10/10/12
		Cabinet Resources Committee	10/10/12
Approval for staff transfer at General Functions Committee	GFC report and Equalities Impact Assessment	General Functions Committee	07/11/12
Informal Staff Consultation meetings		Music Service Staff	10/10/12 25/10/12 08/11/12 13/11/12
Business Transfer Agreement	Draft BTA	New Co. Shadow Board	26/11/12
Measures agreed	Draft Measures Letter	New Co. Shadow Board	26/11/12
Formal Consultation and Tripartite meeting	Measures Letter	Music Service Staff Union representatives	Tbc
Transfer Date		Council and New Co.	01/02/2013