

	<b>Adults and Safeguarding Committee Meeting 8 June 2015</b>
<b>Title</b>	<b>Variation to Your Choice Barnet contract</b>
<b>Report of</b>	Mathew Kendall - Adults and Communities Director
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	None applicable
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## Summary

This report seeks the Committee's agreement to vary the contract for provision of adult social care services between the council and TheBarnetGroup Limited. TheBarnetGroup has sub-contracted the delivery of these services to Your Choice Barnet (YCB). The variations proposed ensure that YCB can manage their staffing costs for non-attendance of service users at high-dependency day services. They also allow YCB to manage a revised service model for escort transport which makes best use of skilled staff resources in day care services.

The proposal results in a net reduction in expenditure to the Council of approximately £20,000 per year and resolves the cost pressure experienced by YCB. There is no service quality impact from the variation.

These changes were negotiated with Your Choice Barnet during the previous financial year and these now need to be regularised to comply with contract procedure rules.

## Decisions

That the Adults and Safeguarding Committee agree to authorise variations to the contract with The Barnet Group Ltd for Your Choice Barnet in order to:

- i) Change the pricing and service delivery model for transport escort services and unplanned non-attendance at high dependency Day Centres.
- ii) Include a clause that all employees and agency staff to have their Right to Work status confirmed.

### 1. WHY THIS REPORT IS NEEDED

1.1 Your Choice Barnet has been working on a range of service developments to enhance the quality of their services and to ensure they are financially sustainable going forward.

1.2 Following extensive negotiations with Your Choice Barnet, this report seeks authorisation to change the current pricing model. The original contract was formulated on a block contract payment basis and unplanned non-attendance has created an unsustainable cost pressure at two day service provisions.

1.3 The YCB day services to which the proposed changes relate are:

**Rosa Morison** – Supporting people who have complex physical and learning disabilities and with significant health needs associated with their disability.

**Flower Lane** – Providing a service for people who have Autism, many of whom have behaviour that challenges and with a high number of individuals who require individual support to enable them to access the service.

1.4 An audit in July 2014 raised concerns around controls to ensure agency staff have sufficient right to work checks. It is proposed that an additional clause will be inserted into the contract requiring all employees and agency staff to have their Right to Work status confirmed.

### 2 REASONS FOR RECOMMENDATIONS

2.1 The proposed changes are:

a) Fund one-off additional travel escort costs from 1 April 2014 to 31 Dec 2014. This has a full year effect of £271,404 which represents a full and final settlement for the period pending negotiation of the revised rates in (b) and (c) below.

b) Reduce the travel escort costs by introducing a new model of delivery and a reduced rate for travel escorts from £14.36 per hour to £10.42

per hour from 1 January 2015. This has a full year effect of reducing travel escort costs of £95,436.

- c) Increase the Day Centre service user day rate from £110 to £115.60 for Rosa Morison and £113.31 for Flower Lane to incorporate payment relating to unplanned non-attendance by service users on first day of non-attendance from 1 January 2015. This has a full year effect of increasing day service cost of £75,570.
- d) An additional clause will be inserted into the contract requiring all employees and agency staff to have their Right to Work status confirmed.

2.2 The proposal when off-set against one-another results in a net reduction in expenditure to the Council of approximately £20,000 on an annual basis and resolves the cost pressure experienced by YCB generated by the delivery to the previous service model for travel escorts and unplanned non-attendance at two day service provisions.

2.3 It is proposed that The Barnet Group will establish and manage a new company for the provision of the travel escort service which is currently provided directly by Your Choice Barnet. Through this new model of delivery The Barnet Group can reduce the costs of the Travel Escort Services.

### **3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 Continuing with the current service and pricing model.

### **4 POST DECISION IMPLEMENTATION**

4.1 The contract variations will be implemented.

### **5 IMPLICATIONS OF DECISION**

#### **5.1 Corporate Priorities and Performance**

The Day Services delivered by YCB are supportive of London Borough of Barnet's 2015-20 Corporate Plan objectives to make sure Barnet is a place "where services are delivered efficiently to get value for money for the taxpayer" and the objectives set out in the 2015-20 Adults & Communities as it promotes independent living, postpones or mitigates the need for entry in to more costly care services.

#### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.3.1 The cost pressure arising from the travel escort service and unplanned non-attendance for 2014 has been met within Adults and Communities Care Budgets.
- 5.3.2 The net position of the two variations is favourable to LBB from January 2015.
- 5.3.3 YCB have remodelled the service to provide a greater efficiency in the use of staff expertise and escort time without adversely impacting the level of service received by Service Users. The total reduction in the cost of travel escorts is £95,436 per annum.
- 5.3.4 The original contract for YCB was based on 100% attendance for costs but payment for attendance only, which adversely impacted YCB. A proposal of costs was submitted to LBB for the management and pricing of unplanned non-attendance. It has been agreed the cost of the unplanned non-attendance will be incorporated into the actual attendance of the service user by increasing the hourly rate per user as below. The increased rate will take into account any service users unplanned absence; therefore YCB will not invoice the Council for additional costs.

<b>1.1.15 – 31.1.17</b>	<b>Per day, per user</b>	
Rosa Morison	£115.60	(£37,180 per annum
	approx. 26 users	

<b>1.1.15 – 31.1.17</b>	<b>Per day, per user</b>	
Flower lane	£113.31	(£38,390 per annum
	approx. 28 users	

Total additional expenditure for Day Centre Service **£75,570pa**

- 5.3.5 The proposal supports increased transparency on pricing and also reduces the likelihood of future budget risks.

### **5.3 Legal and Constitutional References**

- 5.4.1 Regulation 72 of the Public Contracts Regulations 2015 allows contracts to be modified without commencing a new procurement procedure where the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen, the modification does not alter the overall nature of the contract and any increase in price does not exceed 50% of the value of the original contract. The regulations require the council to publish a 'contract modification' notice in the Official Journal of the European Union.
- 5.4.2 Council Constitution, Contract Procedure Rules - paragraph 14 Extensions and Variations sets out that contract variations are subject to the following:

- Contracts may only be extended or varied if all of the following conditions have been met:
- the initial contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;
- the value of the extension or variation added to the value of the original contract does not exceed the original Authorisation threshold as defined in Appendix 1, Table A;
- the extension or variation has an approved budget allocation;
- the extension or variation is in accordance with the terms and conditions of the existing contract;
- if the initial contract was subject to EU tender procedure, that the extension option was declared within the OJEU notice and the original Acceptance (Delegated Powers Report/Cabinet Resources Committee Report); and
- the contract has not been extended before;

5.4.2 All of these criteria are met in relation to the contract variation with Your Choice Barnet.

5.4.4 The Constitution, Contract Procedure Rules Appendix 1 Table A Authorisation and Acceptance Thresholds allows the relevant thematic committee to authorise the variation of contracts with a value above £172,514 if the variation is within budget.

## **5.4 Risk Management**

5.5.1 The fee decrease to the escort service allows YCB to continue to provide an escort service with a revised staffing model aligning the costs associated with the service whilst continuing to provide safe travel escort services.

## **5.5 Equalities and Diversity**

5.6.1 Section 149 of the Equality Act 2010 sets out the public sector equality duty which obliges the Council to have due regard to the need to:

- a) eliminate unlawful discrimination, harassment, victimisation;
- b) advance equality of opportunity between those covered by the Equality Act and those not covered, e.g. between disabled and non-disabled people; and
- c) foster good relations between these groups.

By section 149(2) of the Equality Act 2010, the duty also applies to 'a person, who is not a public authority but who exercises public functions and therefore must, in the exercise of those functions, have due regard to the general equality duty'. This means that the council, The Barnet Group LTD, Your Choice (Barnet) Limited and Barnet Homes LTD will need to have regard to their general equality duty.

- 5.6.2 The vision of Your Choice (Barnet) Limited is to “Empower people to live the lives they chose, as independently as possible.” Consequently creating The Barnet Group LTD with Your Choice (Barnet) Limited as a subsidiary company will support the implementation of the personalisation agenda which aims to increase choice and control for individuals.
- 5.6.3 The Council has, in accordance with its statutory obligations, considered the impact on equalities arising from its proposals. The Community Equalities Impact Assessment has concluded ‘Neutral Impact’ and this will continue to be monitored by the Council and Your Choice (Barnet) Limited. It has been recognised that as the Council moves to a more consumer led model, services provided by Your Choice (Barnet) Limited could be subject to change if demand decreases in the long run. In this case the Council and Your Choice (Barnet) Limited will conduct further Equalities Impact Assessments as part of any proposed change in order to mitigate any potential risk of inequality.
- 5.6.4 Service users may choose support that is more appropriate for their individual preferences and/or needs, including some that may relate to their age, disability, ethnicity and religion or belief. This may have a positive impact on meeting equality obligations.
- 5.6.5 Due to the nature of the services, and service users, equalities and diversity issues have been carefully assessed by the Council. An ‘Easy Read’ version of community communications and presentations has been produced for service users with learning disabilities. This will continue to be the case and this approach has also been adopted by Your Choice (Barnet) Limited, including development of the company website which will incorporate.

## **5.6 Consultation and Engagement**

None

## **6 BACKGROUND PAPERS**

- 6.1 The Learning Disability Commissioning Strategy approved by Cabinet in June 2007 (decision item 12), set out an objective to establish the in house learning disability services within the Council as a separate business unit within the Council at arms-length from Adult Social Services to enable it to operate as an independent provider. The business unit was created in 2009 as part of the Council’s approach to the delivery of the vision for Adult Social Services of Choice and Independence.
- 6.2 The Housing Strategy was agreed by Cabinet on 12 April 2010 (decision item 8). This included the following:
- “The Council views Barnet Homes as a potential vehicle for providing additional services on its’ behalf, as well as extending its role as a provider of housing related services, and we will explore options for progressing this through the Future Shape programme.”

6.3 Cabinet (29 November 2010, decision item 8) approved the decision to develop a business case for the implementation of a Local Authority Trading Company, which would result in the transfer of Learning Disability Services, Physical and Sensory Impairment Disability Services and Mental Health in-house provider services to the Local Authority Trading Company.

6.4 On 24 May 2011, Cabinet Resources Committee approved the Adults In-House Service Review Business Case and initiation of a full business plan (decision item 12). It was resolved; that the Cabinet Resources Committee approved the Adult In-House Services Business Case, in order that the Council can:

- Appoint a Local Authority Trading Company shadow board to begin contract negotiation between the Council and Local Authority Trading Company;
- Set up a holding company in the form of a Local Authority Trading Company, of which Barnet Homes would be a subsidiary;
- Set up a subsidiary Local Authority Trading Company for the management of those Adult Social Services currently provided in-house; and
- Transfer the adult social care service provision from the management of the Council to the Local Authority Trading Company following approval of the business plan.

6.5 On 12 July 2011, Council approved the appointments to the Shadow boards for the Local Authority Trading Company Holding Company (TheBarnetGroup LTD) and the Adult Social Care subsidiary (Your Choice (Barnet) Limited), (decision item 19).

6.6 On 14 November 2011, a decision was taken by the Director of Adult Social Care and Health to enable the formation of TheBarnetGroup LTD (Delegated Powers Report No: 1492).