

	<h2>Adults and Safeguarding Committee</h2> <h3>12 November 2015</h3>
<p style="text-align: right;">Title</p>	<p>Delivering Adult Commissioning Priorities through Your Choice Barnet</p>
<p style="text-align: right;">Report of</p>	<p>Adults and Health Commissioning Director / Director of Adults Social Services</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Urgent</p>	<p>No</p>
<p style="text-align: right;">Key</p>	<p>Yes</p>
<p style="text-align: right;">Enclosures</p>	<p>None</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Rodney D’Costa, rodney.d'costa@barnet.gov.uk 020 8359 4304</p>

<h2>Summary</h2>
<p>Barnet Council currently commissions day and supported living services for disabled people as well as assisted living for older people from Your Choice Barnet (YCB) under a five-year (“three plus two”) contract from 01/02/2012 to 31/01/2017. The current contract stage is year 1 of the plus 2 period and commissioners are taking the opportunity to review the range of services provided by Your Choice Barnet to deliver the Council’s Commissioning priorities, as set out in the Adults and Safeguarding Commissioning Plan, in order to determine the best approach to secure services upon the expiry of the current contract.</p>
<p>YCB is part of The Barnet Group (TBG); and as a Council-controlled wholly owned trading company, the so-called “Teckal” exemption applies which permits the Council to make a direct award of contract to YCB without a competitive procurement under the Public Contract Regulations 2015 (PCR 2015).</p>
<p>The report provides an outline of the process for entering into formal dialogue with The Barnet Group and YCB to challenge them to bring forward fit for purpose and value for money service proposals which achieve the reshaping of services as set out in the Adults and Safeguarding Committee Commissioning Plan. Subject to agreement to this proposal, a further report on the recommended longer term arrangements between the Council and YCB and will be brought to the appropriate Committee at a future date which will then form</p>

the basis for any future contract.

This “challenge” approach was successfully used in commissioning and delivery of housing services and the management of the Barnet housing stock initiated in a report agreed by Housing Committee, 2nd February 2015 with headline outcomes reported to Housing Committee, on 29 June 2015.

Recommendations

- 1. That the Committee approve the approach to review services provided by Your Choice Barnet, as set out in paragraph 2.**
- 2. That the Committee note that a further report will be presented at a subsequent meeting on the preferred option(s) for future delivery.**

1.0 WHY THIS REPORT IS NEEDED

Context

- 1.1 Your Choice Barnet (YCB) was launched in February 2012 and was amongst the first social care Local Authority Trading Companies (LATC) in the UK, providing a range of services to people with learning and physical disabilities; including specialist day centre support to people on the autistic spectrum and complex disabilities, a short breaks service and supported living. The stated vision of YCB Barnet is to “empower people to live the lives they choose, as independently as possible”. Previously services for these client groups were provided in-house.
- 1.2 YCB’s income from Barnet Council was £4.766m in 2014/15 relating to approximately 250 service users. YCB also generates income from other commissioning organisations, with other Councils purchasing places in the specialist resource provisions of Flower Lane and Rosa Morison. Once YCB was established a programme of cost reductions and a staffing restructure was implemented in order to meet Business Plan targets which were agreed by Cabinet Resources Committee.
- 1.3 A Task and Finish Group comprising cross-party Member representation was set up in 2013 in response to concern surrounding the sustainability of the provision of Adult Care Services through the LATC. The group published its report, endorsed by Cabinet 25 February 2014. A number of recommendations were made relating to process improvements as a result.
- 1.4 Formal monthly contract monitoring meetings, based upon an agreed performance framework and recently revised to include a focus on quality issues (paragraph 1.6 below refers), are held involving senior managers from the Commissioning Group, Adults & Communities Delivery Unit and YCB. In addition to this framework, there is individual care planning and monitoring of client outcomes by Delivery Unit staff.
- 1.5 YCB provides two services which are regulated by the Care Quality Commission, the Supported Living Service and Valley Way Respite Unit. The Committee will be aware that in February 2015, the adult social care regulator, the Care Quality Commission (CQC), published a report of YCB’s Supported

Living Service (SLS), following an inspection the previous year. This report rated the SLS as “inadequate” overall. In response, YCB management submitted an improvement action plan to CQC to ensure that all issues raised by CQC would be addressed. A follow-up inspection by CQC is expected by February 2016. Valley Way Respite Unit was inspected by CQC in June 2015 and received a ‘Good’ rating.

- 1.6 Apart from the CQC inspection of supported living, YCB’s overall contract performance is good, as reported to Performance & Contract Management Committee and summarised below:

Reporting Period	Overall RAG Performance Indicators	Other Achievements
Quarter 2: 2015/16 (draft report yet to be published for 17 November 2015 Committee)	Green 16 (80%) Amber 3 (15%) Red 1 (5%)	Improved sickness and absence performance amongst staff with an average 9.3 days of sickness per employee, within the target range for Green rating.
Quarter 1: 2015/16	Green 17 (85%) Amber 2 (10%) Red 1 (5%)	Trend reduction in usage of Agency staff, reflecting recent staff restructure and recruitment drive. Utilisation rates consistently high across YCB services. For example full year 2014/16 figures are: 90% at Barnet Independent Living Service, 97% at Community Space, 97% at Flower Lane, 98% at Rosa Morison; and 99% in Supported Living.
Quarter 4: 2014/15	Green 12 (55%) Amber 6 (27%) Red 4 (18%)	Consistently good / high service user feedback.

- 1.7 YCB made a series of efficiency savings during 2013, culminating with a reduction to employees’ salaries whilst ensuring all staff are paid the London Living Wage. These changes came into effect from April 2014 and through these changes YCB has positioned itself as a sustainable adult social care provider into the future, providing services at a unit cost which is competitive in the social care marketplace.
- 1.8 YCB needs to achieve a minimum of a break-even position year on year and needs any surplus cash to build its reserves to a level which will support its cash-flow and act as a cushion against increasing pension contributions and

enable repayment of an outstanding loan to Barnet Homes. The budget for 2015/16 has a forecast surplus of £50k and the organisation is on track to meet this forecast.

2.0 REASONS FOR RECOMMENDATIONS

- 2.1 The current contracts with YCB expire on 31 January 2017. The purpose of the proposed dialogue is to “challenge” YCB in the interim to develop fit for purpose and value for money services as part of a new procurement going forward. The outcome from this dialogue will therefore help inform commissioners whether to recommend the current services provided by Your Choice Barnet should be re-commissioned through market testing or reshaped by Your Choice Barnet by continuing to invoke the Teckal exemption through a new contract (or a combination depending on the “bundling” of service lots).
- 2.2 The above dialogue presents an opportunity to modernise the service model consistent with the national and sector agenda which focuses on employment, social inclusion, living in a home of your own, training and empowering individuals to exercise choice and maximise opportunities for living independently, whilst still ensuring that eligible needs will be met.
- 2.3 Commissioners will be exploring options for reshaping Day and Supported Living Services as outlined in the Council’s Medium Term Financial Strategy. The dialogue will also explore opportunities for YCB and the wider services of TBG to help deliver housing related savings in the adult social care MTFs, for example, those based on moving people from residential care into supported accommodation.
- 2.4 In the context of Winterbourne View, the dialogue sessions will also explore the potential for YCB to assist with meeting the Council’s and Barnet CCG’s commitments to resettle this group of people from hospitals and out of borough placements.
- 2.5 Indicative steps and timescale for the proposed dialogue is as follows:

1	Develop output and outcome specification for services relating to People with Physical and Learning Disabilities	Run concurrently from Nov 2015 to Feb 2016
2	Initial exploratory meetings on the housing related savings (£2.5m)	
3	Assess performance (quality and value for money) of YCB and benchmark against other providers	
4	Challenge sessions with YCB. Key Lines of Enquiry to include : <ul style="list-style-type: none"> • How does YCB demonstrate value for money in its plans to <ul style="list-style-type: none"> ○ Reduce dependency of service users wherever possible through an enablement approach. ○ To better utilise the specialist resource hubs of 	February – April 2016

	<p>Rosa Morison and Flower Lane</p> <ul style="list-style-type: none"> ○ Meet key performance measures around employment levels, carers support, independent living and enablement. ○ Contribute to wider Council objectives ○ Capitalise on the opportunities of growth and the reshaping of older person's social housing to develop new ways of meeting adult social care users' needs ○ Capitalise on the work on welfare reform to promote employment opportunities for disabled adults ○ Promote greater levels of travel independence ○ Promote greater levels of user, carer and staff involvement in the running of services. ○ Work in partnership with other organisations to grow the business of YCB ○ Continuous improvement and to be assessed as a good provider or above across all registered services. <ul style="list-style-type: none"> ● How The Barnet Group through Barnet Homes and Your Choice Barnet can bring forward range of accommodation and support options to support people with complex needs live in the Borough as an alternative to out of area placements. ● What is the opportunity to reduce duplication with the Council e.g. trusted assessments and reviews of need, support brokerage 	
5	Options appraisal	April 2016
6	Report to Adults and Safeguarding Committee for endorsement of proposed Heads of Terms for new contract with YCB or alternative recommended procurement	Spring 2016
7	<p>Develop the preferred option(s)</p> <ul style="list-style-type: none"> ● Objectives ● Legal Clauses ● Specification ● Governance Arrangements ● Review Mechanisms ● Change Procedures ● Payment Mechanism ● Performance Framework <p>Undertake consultation on preferred options as required.</p> <p>Procurement and mobilisation of services with a go-live date of 1 February 2017.</p>	Post Committee decision (Spring 2016)

3.0 **ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 This report proposes a dialogue which will help inform commissioners develop recommendations to elected Members on whether to continue to procure services from Your Choice Barnet on expiry of the current five year contract or to commence a competitive procurement.

3.2 The alternative option would be to undertake to market test all of the services through a competitive procurement process undertaken in 2016 or to plan to bring back the services in-house on the expiry of the contract. YCB is a good provider which continues to achieve high levels of satisfaction and strong support from users, carers and councillors. Officers therefore recommend exploring the modernisation and improvement of the services provided by YCB through a dialogue and challenge process. By commencing this dialogue process 14 months ahead of contract expiry, this will allow for sufficient time to complete a thorough dialogue process with YCB; for the committee to consider the outcomes from this and agree the procurement approach and allow for new arrangements to be put in place.

4.0 **POST DECISION IMPLEMENTATION**

4.1 Subject to Committee approving the proposal, officers will proceed with the activities and related timescales outlined in paragraph 2.5.

5.0 **IMPLICATIONS OF DECISION**

Corporate Priorities and Performance

5.1 The Corporate Plan 2015 – 2020 sets out the Council's vision and strategy for the next five years based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:

- of opportunity, where people can further their quality of life
- where people are helped to help themselves, recognising that prevention is better than cure
- where responsibility is shared, fairly
- where services are delivered efficiently to get value for money for the taxpayer

This report proposes a procurement approach with the aim of realising the above principles in relation to people with physical and learning disabilities.

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

6.1 Paragraph 2.3 above sets out drivers for the proposal, which relate to achieving value for money for Barnet residents whilst also promoting high quality services for some of the most vulnerable sections of the community.

7.0 **Legal and Constitutional References**

7.1 Terms of Reference for the Adults and Safeguarding Committee are set out in the Council's Constitution (Responsibility for Functions, Appendix A). The Adults and Safeguarding Committee has the following responsibilities:

- Promoting the best possible Adult Social Care services.
- To ensure that the Council's safeguarding responsibilities are taken into account.

7.2 HB Public Law has confirmed that the so-called "Teckal" exemption (Regulation 12[1]) applies under the Public Contracts Regulations 2015 (PCR 2015). This exemption allows the Council to make a direct award of contract to YCB without a competitive procurement.

7.3 The Teckal exemption is satisfied because:

- Regulation 12a – YCB is "controlled" by the Council (as it is the sole shareholder through the Barnet Group). There is a shareholder agreement in place between The Barnet Group and the Council;
- Regulation 12b – YCB carries out over 80% of its activities for the Council; and
- Regulation 12c – There is no private ownership of YCB.

8.0 **Risk Management**

8.1 Under any competitive procurement scenario, TUPE (Transfer of Undertakings [Protection of Employment] Regulations 2006) is likely to apply to any contract award to a new service provider.

9.0 **Equalities and Diversity**

9.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- advance equality of opportunity between people from different groups.
- foster good relations between people from different groups (protected characteristics i.e. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation).

9.2 YCB (and The Barnet Group) operates an equalities strategy which fully supports the Council's equalities aims and principles.

9.3 The purpose of the dialogue includes promoting the principles of fairness, opportunity and responsibility (paragraph 5.1 refers).

9.4 An Equality Impact Assessment will be included as part of the recommended

procurement approach.

10.0 Consultation and Engagement

- 10.1 It is proposed at this stage that this is an Officer review, leading to a clear preferred option for recommendation to Committee in Spring 2016. Service user and carer feedback, satisfaction and outcome data will be reviewed during the dialogue process to inform the future requirements.
- 10.2 The outcomes from the review will determine the nature and extent of any user, carer or wider consultation and engagement required.

11.0 Insight

- 11.1 The Joint Strategic Needs Analysis (JSNA) contains a number of references to the prevalence and projected increases in people with physical and learning disabilities. For example:
- “Due to the projected population increase in the 65 and overs, the number of people aged over 65 with moderate or severe learning difficulties is estimated to rise from 143 in 2015 to 187 in 2030; a rise of over 30%”
 - “Across all age groups, more people have physical disabilities than learning disabilities”

12.0 BACKGROUND PAPERS

- 12.1 Cabinet Resources Committee 16.01.12 – Item 5
<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201201161900/Agenda/Document%203.pdf>
- 12.2 Cabinet 25.02.2014 – Item 5
<http://barnet.moderngov.co.uk/documents/s13206/Your%20Choice%20Barnet%20TFG%20-%20Cover%20Report%20to%20Cabinet.pdf>
- 12.3 Housing Committee 02.02.2015 – Item 14
<http://barnet.moderngov.co.uk/documents/s20709/Management%20Agreement.pdf>
- 12.4 CQC 25.02.2015 – Inspection Report on Barnet Supported Living Service
<http://www.cqc.org.uk/location/1-112848964>
- 12.5 Performance and Contract Management Committee
Q1-2015/16
<https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/corporate-plan-indicators-2015-16-quarter-1.html>
Q4- 2014/15
<https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/corporate-plan-indicators-2014-15-quarter-4.html>
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