



Executive
16th January 2006

**Report from the Director of
Children and Families**

For Action

Wards Affected:
ALL

The Freeman Family Centre

REASON FOR URGENCY:

Project timescales are dependant on the award of a building contract in January 2006. Finance must be made available for the award of the building contract and provision of finance is dependant on the Council's agreement not to require the break clauses in the Service Contract previously agreed by the Executive on 14th February 2005.

1.0 Summary

- 1.1 This report seeks agreement for the Council to enter into a number of agreements with Barnardo's and the Freeman Trust with regard to the construction of a family centre on the vacant site at Longstone Avenue NW10 and its subsequent use. It also provides clarification of the terms of the Service Contract to be entered into by the Council with Barnardo's once the building works have been completed.

2.0 Recommendations

- 2.1 That Members confirm their previous decision that the Council grants a 100 year lease of the centre to Barnardo's on completion of the development. The exact terms of such lease to be determined by the Head of Property and Asset Management in consultation with the Borough Solicitor and the Director of Finance.
- 2.2 That Members agree that the Council enters into a 20-year Service Contract with Barnardo's once the works have been completed and the centre is ready to open subject to the revenue funding being available from 2007/8. The exact

terms of this Service Contract to be determined by the Director of Children and Families on the advice of the Borough Solicitor and with the agreement of the Director of Finance and Corporate Resources but with a requirement for service reviews (as set out paragraph 3.7) rather than the break clause previously agreed by the Executive at its meeting of 14 February 2005,

- 2.3 That Members agree that the Council enter into a tripartite Funding Agreement with the Freeman Trust and Barnardo's setting out the basis on which the Freeman Trust will provide funding for the centre and obligations of the Council and Barnardo's. The exact terms of the Funding Agreement to be determined by the Director of Children and Families on the advice of the Borough Solicitor and with the agreement of the Director of Finance and Corporate Resources.

3.0 Detail

- 3.1 The Freeman Trust was established following the death of Mrs Iris Freeman in 1997. Mrs Freeman lived in Brent in her formative years and her family wish to create a "living monument" to her by funding a centre of excellence for the provision of statutory children's services in the area where she was brought up. They wish the services to be provided through a voluntary sector provider, Barnardo's. The proposal is that the Freeman Trust fully funds the building of the centre and fully equips it on a site at Longstone Avenue which is owned by the Council. The Council, will lease the land to Barnardo's and will commission and pay for the services provided by Barnardo's. This will be by way of a Service Contract which will include a full service specification and monitoring arrangements to ensure that the services meet the needs of Brent children and families.
- 3.2 This matter was considered by members on 14 February 2005 when approval was given to the Council working with the Freeman Trust and Barnardo's in order to enable the establishment of the family centre at Longstone Avenue ("the centre").
- 3.3 Members agreed on that occasion for the Council to enter into a service contract with Barnardo's for the operation of the centre. In the report that went before members on 14 February 2005, it was indicated to members that the terms of the proposed Service Contract between Barnardo's and the Council would be for a 20 year period with breaks (i.e. an opportunity for the Council to terminate the contract) at 5 year periods, with a right for the Council to renew it at the end of the 20 year period.
- 3.4 In subsequent discussions with the Freeman Trust and Barnardo's, the Freeman Trust has indicated that its intention was for the contract to be for a 20 year period with reviews (rather than breaks) every 5 years with a right for the Council to renew it at the end of the 20 year period. The Trust has expressed concern that having fully funded the building of the centre and equipped it at a cost of £1.7 m, it would not wish the Council or Barnardo's to be able to exercise a break in the Service Contract within the 20 year period.

- 3.5 The Trust has indicated that it would not wish to continue to be involved in the project if the 20 year Service Contract were to include a break clause.
- 3.6 Entering into a 20 year Service contract without a break clause has risks for the Council. Given the duration of the proposed contract, there is a possibility that funding for the services to be provided under the contract may change over this period. There is also a possibility that the need for services of the sort provided at the centre may change during this period. Officers have considered such matters and are of the view that the services to be provided at the centre are preventative services. It is considered that there has always been a role for such preventative services and they continue to be at the core of the "Every Child Matters" agenda and fit in well with the Council's own Local Preventative Strategy. As a result it is considered unlikely that the importance attached to such preventative services will change radically in the next 20 years.
- 3.7 Further, both the Freeman Trust and Barnardo's are happy for there to be provision in the Service Contract for service reviews to take place every five years. The Council will monitor the effectiveness of the services provided and the provision for review will provide an opportunity to vary the specification (and to adjust the contract price accordingly if necessary) to allow reasonable changes in the type of children's services to be contracted for at the centre to ensure that services remain responsive to demand and change in best practice. This would enable the Council to change the balance between statutory and preventative services if necessary and ensure the most efficient use of the resource. The reviews would also ensure that the centre is available for use by the community and that it contributes to the long term aim of integrated service delivery for children and families. It is proposed that the reviews will not be dependent on Barnardo's agreement in that the Council will be able to impose changes to the specification that it considers appropriate. However, it is anticipated that officers from the Children and Families Department will work in partnership with Barnardo's throughout the period of the contract and will identify with them how to make any changes to services as they become necessary. Such service reviews would give the Council sufficient flexibility to ensure that the service could change over the duration of the contract and the service delivered is what is needed by the Council as its population changes. There will be regular monitoring of value for money across the life of the contract and if it appears this is not being achieved, the service contract will allow the Council to ensure the provider improves performance.
- 3.8 Officers consider that the risks identified as arising out of a 20 year contract period will be adequately addressed by the provision for service reviews and any remaining risk is justified by the value of this project to the Council. Officers would therefore recommend that members agree to the Council entering into a 20-year Service Contract without break clauses but with provision allowing for service reviews at 5 year intervals.
- 3.9 In addition, at the meeting of 14th February 2005, Members agreed that a lease be granted to Barnardo's for the purposes of the centre but the exact details of the lease were to be determined by the Head of Property Services

on the advice of the Borough Solicitor and with the agreement of the Director of Finance and Corporate Resources.

- 3.10 The proposed terms set out in the report of 14th February 2005 were that Council will grant a lease to Barnardo's for a term of 100 years at a peppercorn rent, with break clauses at 20 year intervals. At the end of the first 20 years, either the Council or Barnardos may choose to terminate the lease by activating the first break clause in it, but only if that party buys out the other's interest. Alternatively, the parties could agree to terminate the lease, and in this case the building would be sold. In the event that the latter option was taken, any proceeds of sale would be distributed and shared in proportion to the inputs of Brent Council and Barnardo's, (being the beneficiary of the Freeman Trust's contribution) to the construction cost, fees and fit out of the centre. Should the lease not be broken at the end of year 20, then similar break and distribution arrangements would apply at years 40, 60, 80 and 100.
- 3.11 Additionally, the report of 14th February 2005 suggested that:
- (a) covenants be incorporated in the property documents requiring the building or any replacement thereof on the site to be used for the benefit of children; and
 - (b) that the building be called the "Freeman Centre" whilst it remain in the ownership of either Barnardo's or the Council; and
 - (c) that on exercise of the break clause in the lease, the building be sold for continued use as a family centre; and
 - (d) that in the event of the property being sold, the sale proceeds should be shared between the Council and Barnardo's in the proportion of the parties input
- 3.12 The Head of Property & Asset Management pursuant to the authority delegated to him to agree the exact terms of the lease, has been considering whether the above are suitable terms for the lease or not. He has expressed some concern that the proposal that the property, if sold on exercise of the break clause be sold for continued use as a family centre, will reduce the value of the site and consequently the Council's income. He has concerns about some other aspects of the terms referred to in 3.11 above and is endeavouring to agree more favourable terms with the Barnardos and the Freeman Trust.
- 3.13 Members should therefore note that the Head of Property & Asset Management is in discussions with Barnardo's and the Freeman Trust as to the exact details of the lease and the lease eventually granted to Barnardo's may not include all the provisions described at 3.11 above.
- 3.14 The Freeman Trust has proposed a tripartite Funding Agreement setting out the basis on which The Freeman Trust will provide funding for the centre. The Funding Agreement is concerned principally with the way in which the Freeman Trust will release funds to Barnardo's for the construction of the

centre and the way in which Barnardo's will arrange for contractors to carry out and complete the works. Certain provisions proposed do however seek to place obligations on the Council. The main obligation on the Council that is proposed is that the Council is not permitted to vary the lease or use the property for any purpose other than as a family centre during the period of the lease without the consent of the Freeman Trust. Other obligations proposed are that 2 plaques will be erected and maintained at the centre detailing that it is to be known as the Freeman Centre and that the Council will not permit Barnardo's to assign or charge the Agreement for Lease without the prior written approval of the Freeman Trust.

4.0 Financial Implications

- 4.1 The Freeman Trust is prepared to meet the full cost of building and equipping the centre up to a total of £1,700,000 and this would be the value of their contribution to the project. The full cost of the building will be met by this donation and any cost overruns will be met by Barnardo's. Brent Council will grant a lease to Barnardo's for a term of 100 years at a peppercorn rent. The value of the land is estimated at £300,000 and to reflect the Council's contribution by providing the site for the development and the Freeman Trusts funding of the construction, fees and fit out of the centre, the Service Contract will not include any element of rent for the building.
- 4.2 The Council will grant a lease to Barnardo's for a term of 100 years at a peppercorn rent. At the end of every 20 year period, either party may choose to terminate the Lease, leaving the parties free to buy out the other's interest or sell the building. Any proceeds of sale will be distributed and shared in proportion to the inputs of the parties (which in the Council's case would be the value of the land provided). There are discussions with Barnardo's and the Freeman Trust as to whether, if the property were to be sold, it should be sold on the basis that it should continue to be used as a family centre. If it were to be sold with a requirement that it should continue to be used as a family centre, this would reduce the open market value of the land.
- 4.3 The Service Contract with Barnardo's will reflect the cost of providing services from the centre and will determine what the services will be. It will be at the level of approximately £350,000 per year. This figure is based on a staffing establishment which includes a Centre Manager, assessment and play workers, administrative staff, a cleaner and a caretaker. The target date for the opening of the centre is January 2007. A growth bid has been made for £100,000 in 2006-7, for nine month funding for a centre manager and funding for January – March 07 for the full establishment and for £250,000 in 2007-8. If this growth is not agreed then the project cannot proceed or funding will have to be identified from within the Children and Families Budget. Members should be aware that by entering into this agreement they would be making a commitment to funding of up to £350,000 per annum from January 2007 for a period of 20 years.

5.0 Legal Implications

- 5.1 When members considered this matter on 14 February 2005, it was indicated that the terms of the Service Contract with Barnardo's would be for a 20 year period with breaks at 5 year periods. The Freeman Trust has indicated however that it cannot accept there should be break clauses in the Service Contract at 5 year periods and are threatening to withdraw from the project if such break clauses are inserted in the Service Contract.
- 5.2 Entering into a 20 year Service Contract without the ability to terminate the contract during its term (save for breach, frustration or by agreement) is a significant commitment for the Council. There is a risk that the Council's need for the service of the sort contracted for may have changed significantly during this period as a result in change in focus for the Council, a change in views as to how such services should be provided or a change in population. It will be noted in paragraphs 3.6 and 3.7 that Officers are of the view that this is not a significant risk in the case of the particular contract and the risk will be managed by the incorporation into the contract of service reviews at 5 year intervals. There is also a possibility that the cost of providing the service may not offer best value for the Council with there being more cost effective ways of providing such services in future years.
- 5.3 The Freeman Trust has proposed a tripartite Funding Agreement setting out the basis on which The Freeman Trust will provide funding for the centre. This is the only formal agreement between the Council and the Freeman Trust, the Lease and the Service Contract being between the Council and Barnardo's . The main effect of the Proposed Funding Agreement on the Council, as set out at paragraph 3.14, is consistent with the decision of members on 14th February 2004 but should different terms be agreed by the Head of Property and Asset Management as discussed at paragraph 3.13 any commitment in the proposed funding agreement would need to be consistent with those terms.
- 5.4 The Freeman Trust is a registered charity which is regulated by charity commission and charity law. In the event of the Freeman Trust being wound up, its obligations would pass to another charity and it would be necessary for the Council to contact that successor body for consent.

6.0 Diversity Implications

- 6.1 The centre will serve vulnerable children and families. The service contract will ensure that full advantage is taken of this opportunity to provide family support services that are appropriate to the needs of a diverse community. The Service Contract will be monitored so that services continue to meet the needs of the community as those change over time and to ensure that there is full compliance with Brent's Customer Care and Equal Opportunities Policies and with the relevant legislation. The building will be fully accessible to children and parents with disabilities and the fit out and finish of the centre will be child and family friendly.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no staffing implications. It is proposed that the centre will be managed by Barnardo's and that there will be a Service Contract between Barnardo's and the Children and Families Department.

Background Papers

Report to Executive 14 February 2005.

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