



Cabinet
8 February 2016

**Report from the Strategic Director
Children and Young People**

For Action

Wards Affected:
ALL

Variation of Barnardo's contract to include Crèche Services

1.0 Summary

- 1.1 In June 2015 Cabinet agreed to award the contract for managing 14 Brent Children's Centres to Barnardo Services Limited. The contract commenced on October 5 2015. An essential part of successful Children's Centre service delivery/ outcomes includes provision of crèche services on site, to allow parents/carers to attend courses and adult centred activities (eg parenting groups, money management courses) knowing their young children are well looked after nearby. The current provider of crèche services is ceasing this provision and officers consider that varying the contract with Barnardo Services Limited to include such crèche services is an appropriate way of arranging future provision.

2.0 Recommendations

- 2.1 Cabinet approve the variation of the contract for the operation and management of Brent's Children's Centres with Barnardo Services Limited commencing on 5 October 2015 to allow the inclusion of the management and provision of crèche services.

3.0 Detail

- 3.1 At the time of awarding the contract to Barnardo Services Limited ("Barnardo's") to operate and manage 14 children's centres, the governing body of the Fawood Curzon Federation ("Fawood Curzon Federation") managed the other 3 children's centres in Brent.
- 3.2 The buildings of Fawood and Curzon centres were purpose built as a combined nursery and children's centre. The design of the buildings is such that the separation of the children's centre and nursery functions is not possible. For this reason these 3 children's centres managed by the Fawood Curzon Federation remained outside of the scope of the contract with Barnardo's.
- 3.3 The Fawood Curzon Federation also managed a crèche 'bank' service providing crèche services at those children's centres it managed and also those centres originally managed by the Council.

- 3.4 The arrangement whereby a provider of children's centre services also managed the crèche bank service was considered beneficial given the interrelationship of the operation of the children's centre and the provision of crèche services. An essential part of successful children's centre service delivery/ outcomes includes provision of crèche services on site, to allow parents/carers to attend courses and adult centred activities (e.g. parenting groups, money management courses) knowing their young children are well looked after nearby. Provision of the crèche bank service by Fawood Curzon Federation provided a seamless service at those children's centres it operated and through close cooperation with the Council, the Fawood Curzon Federation was able to also deliver an effective crèche service to the other children's centres.
- 3.5 In July 2015 the Head of the Fawood Curzon Federation resigned his position and subsequently left his post in December 2015. It has not yet been possible to appoint a substantive headteacher. The governing body of Fawood Curzon Federation indicated to the headteacher in July that, in the circumstances, they would no longer be able to manage the crèche bank service. In the autumn term 2015 the Council was made aware that governing body had terminated the contracts of crèche workers. Interim arrangements were put in place by the Council. The governing body of Fawood Curzon Federation confirmed that going forward they wish to terminate this element of its agreement. In view of the notice given by the Fawood Curzon Federation, officers have had to consider alternatives for the delivery of a crèche service.
- 3.6 One alternative that officers have considered is bringing the service in house. Whilst the council employs a crèche co-ordinator, the crèche workers have previously been employed by the Fawood Curzon Federation. As outlined above, the Council needed to make interim arrangements in September 2015 and therefore contracted with self employed crèche workers and some agency workers to enable an interim crèche service to be delivered. This use of self employed and agency staff is costly, as would be the cost of transferring these staff to permanent council contracts. Officers do not therefore consider that bringing provision of the service in house would be advantageous or cost effective for the Council and have ruled this option out.
- 3.7 Officers have considered the possibility of tendering the crèche service. There is however concern that tendering and awarding a contract for crèche bank services to a third party would be detrimental to the effective provision, not only of the crèche bank service, but also of children's centre services. Barnardo's Services Limited have responsibility for the day to day management of most of the children's centre buildings and therefore the availability of rooms for crèche delivery. This would present practical difficulties in managing the crèche service should be awarded to an alternative provider.
- 3.8 Quality is an important aspect of the crèche service as it plays a key role in monitoring children's development and progress of all children. The service will form part of any Ofsted inspection of the Children's Centres. The statutory responsibility for quality and Ofsted remains with the council. As indicated at paragraph 3.4, the arrangement whereby a children's centre provider also manages the crèche bank service is considered beneficial given the close interrelationship between the crèche service and the effective operation of the children's centre.

- 3.9 In addition to the above technical issues with letting a contract for crèche bank services to a third party, there is also concern at the impact on the crèche service of a lengthy procurement process. Any procurement of the crèche service is likely to take approximately six months. Whilst temporary arrangements are in place to continue to provide a crèche bank service, there are concerns that, without substantive leadership in place, the quality of the crèche service may begin to suffer.
- 3.10 Given Barnardo's are now the main provider of children centre services in Brent, officers have considered whether it may be possible to vary the existing children's centre contract with Barnardo's to include crèche services. The contract with Barnardo's permits variation. Barnardo's offer childcare themselves in other contracts they have across the UK and are therefore a provider with experience and expertise in the provision of this service. Given that they are the main provider of childcare services in Brent, they would not experience the issues that a third party provider may have in operating effectively the crèche bank service with the children's centre service.
- 3.11 Officers have therefore held exploratory talks with Barnardo's to establish whether they are interested in providing a crèche bank service in Brent. Barnardo's have confirmed that they would be interested in providing such service and would do so for £120,000 for direct delivery. Officers have also explored the transfer of the Council employed part time crèche co-ordinator pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as part of any variation to the contract. This would add an additional £25,000 to the fees. There would be no cost of living uplift on these figures for the term of the contract, giving a total proposed annual sum of £145,000. This represents a reduction on the costs that the council paid to the Fawood Curzon Federation last year which totalled £164,000.
- 3.12 Having reviewed options, officers consider a variation to the existing Barnardo's contract to incorporate the provision of the crèche bank service in Brent for the remaining term of the contract is the preferred way forward.

4.0 Finance

- 4.1 Currently the total cost to Brent of providing crèche services is approximately £164,000. This is made up of £139,000 on direct delivery and £25,000 on a part time coordinator.
- 4.2 The proposed contract price with Barnardo's is £145,000. Therefore, if the contract variation is approved, there will be a saving to the Council of £19,000 from 2016/17.

5.0 Legal

- 5.1 As indicated at paragraph 3.10, there is provision in the children's centre contract with Barnardo's that permits variations generally. As the variation provision does not specifically mention the ability to include crèche bank services, it is necessary to refer to the provisions of the Public Contracts Regulations 2015 ("PCR 2015") to establish whether such a variation is permitted under EU law.
- 5.2 Regulation 72 of the PCR 2015 sets out the circumstances in which it is acceptable for a contract to be varied rather than having to go through a new procurement process. Regulation 72 (1)(b) permits the variation of a contract

where additional services are necessary and a change in contractor cannot be made for economic or technical reasons and where the variation does increase the price by more than 50%.

- 5.3 Paragraphs 3.7 and 3.8 detail that there is a need for crèche services at children's centres and indicate that for technical reasons these are best provided by a contractor that is also providing children centre services given the interrelation between the two services. Should the Barnardo's contract be varied to include the delivery of crèche services for the outstanding term of the contract, this this would not increase the price by more than 50%. It would therefore appear that variation of the contract is permissible pursuant to Regulation 72 (1)(b).
- 5.4 Should members agree to the variation of the Barnardo's contract to include crèche services, Regulation 72 (1)(b) does require the publications of a notice in the Official Journal of the European Union about the modification once it has taken place
- 5.5 The value of the proposed variation to the contract for the outstanding term of the Barnardo's contract (if extended to the full 5 year term) is approximately £664k. Officers only have delegated authority to agree variations valued at less than £250k. In the circumstances, Cabinet approval to the proposed variation is required.

6.0 Diversity implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications as a result of this report.

7.0 Staffing

- 7.1 There is one part time member of Council staff that assists with coordinating the bank of crèche workers and planning the allocation of services across the centres. It is proposed that the part time crèche coordinator would (following consultation) be transferred to Barnardo's as part of the variation pursuant to TUPE.
- 7.2 The crèche workers appointed by Fawood Cuzon Federation formed a bank of workers that provided services on an 'as needed' basis. The crèche workers notified the Fawood Curzon Federation and crèche coordinator of the hours they were available to work and they were then allocated work at the children's centres. The Fawood Curzon Federation terminated all such appointments at the end of July 2015. No crèche services were provided in August 2015. In September the Council contracted with self employed crèche workers and some agency workers to enable an interim crèche service to be delivered. This use of self employed and agency staff is costly. Subject to cabinet approval of the contract variation, Officers will therefore recommend that Barnardo's appoint staff and re-introduce systems to address the maintenance and improvement of quality and the delivery of staffing training.

Contact Officers

Sue Gates

Head of Early Help and Family Support

Tel: 020 8937 2710

Email: sue.gates@brent.gov.uk

Cate Duffy
Interim Operational Director Early Help and Education
Tel: 020 8937 3510
Email: cate.duffy@brent.gov.uk

GAIL TOLLEY
Strategic Director Children and Young People