

London Borough of Brent
Executive - 8th December 2003
Joint Report from the Directors of Social Services, Housing and
Education, Arts and Libraries

Report Title: - Proposal for future delivery of a cleaning service for some
Social Services and Education Centres

For Action

Name of Wards Affected

ALL

Above

Below

Confidential Line

(Except Appendix 1)

1. Summary

- 1.0 This report explains proposals for temporary and long term cleaning services for some Social Services and Education Centres because Housing Services through Brent Building Cleaning (BBC) are no longer able to provide a viable office and school cleaning service. The report sets out the various options and issues to consider.

2. Recommendations

- 2.1 The Executive give approval to engage an external organisation to provide a cleaning service for the Social Services and Education Centres detailed in the report at paragraphs 6.10 and 6.13 for a period of 12 months, subject to officers undertaking a competitive tendering exercise for the long term provision of the service during that 12 month period (Option 4 in this report).
- 2.2 In the event that recommendation 2.1 is agreed, the Executive note the quotes provided by the three external organisations detailed in Appendix 1 and that officers will undertake an evaluation of those quotes in order to assess which is the most economically advantageous to the Council.

3. Financial Implications

- 3.1 Brent Building Cleaning (BBC) is one of the Council's trading units. The unit generates income from its trading activities, and it is important that the annual income exceeds the unit's expenditure, in order to be in surplus.
- 3.2 BBC has recently been facing financial difficulties. For 2001-02 the Unit finished the year with a £108k deficit. For 2002-03, the Unit ended the year with a £27k deficit. These deficits were funded by the Housing Revenue Account.

- 3.3 The financial position for BBC has worsened this financial year because during a recent tendering exercise undertaken by Brent Housing Partnership contracts for the cleaning of two housing estates were awarded to Wetton Cleaning Services. This work had been previously undertaken by BBC.
- 3.4 Before the start of the 2003-04 financial year, a detailed financial review was undertaken on the trading activities (ie both contracts with external organisations and arrangements with other units in the Council) which BBC had in place for 2003-04. It was established and forecast that BBC would have a deficit of £196k in 2003-04. More up-to date information (the budget monitoring statement for September 03) predicts a deficit of £230k in 2003-04. However a number of measures are being implemented (of which this report is one) to reduce expenditure, and to increase income, which will help to mitigate the forecast deficit.
- 3.5 Now that BHP has been in operation for 12 months, it will shortly be undertaking a tendering exercise for the remainder of the estate cleaning contracts. BBC may or may not win this work. This will leave the remaining non housing services as an unviable separate business. Any deficit arising on BBC before the Housing element is provided by BHP will be met by the HRA. After the Housing and non Housing elements are split, any deficit arising from the non housing contracts would fall to be met by the General Fund. Adoption of the recommendations in this report for the non Housing elements of BBC will reduce the BBC forecast deficit, and avoid any trading deficit impact for the Council's General Fund.
- 3.6 The estimated value of a cleaning service contract for the Social Services and BACES centres identified in this report is set out in the below the line appendix, Appendix 1. This is based on the current cost and quotes obtained from three external providers (see paragraph 6.15 for further information).
- 3.7 It is anticipated that the cost of the interim and long term contracts will be funded from existing resources. However if the service remained in-house there is likely to be additional costs to Social Services and BACES as the current amount paid to BBC does not fully reflect the total cost of staff and staff cover.
- 3.8 The position with the long term contract will depend on the tenders received but if these come in higher than budget then additional resources would need to be found elsewhere within the Social Services / BACES budgets. BACES are 100% funded by the Learning and Skills Council so any increase in costs will not impact directly on the Council.

4. Staffing Implications

- 4.1 There are nine cleaners working in the three Social Services buildings. All of these work ten hours a week except for two that work five hours per week. Three of the cleaners are full time housing estate operatives who carry out the cleaning on an additional hours basis as a second duty. The two operatives

that work five hours per week carry out this work as a second duty as their main duty is cleaning St Augustine's School, Westminster.

- 4.2 There are five cleaners working in the three BACES buildings, one of these is a housing estate operative carrying out the work as a second duty for fifteen hours per week. The total hours per week for these buildings is sixty-five.
- 4.3 Initial consultations with the staff and unions have already taken place and are the subject of an on-going process.
- 4.4 The practical net effect of the award of an interim contract is that the affected staff would cease to be employees of the Council and would transfer, as a matter of law, to become employees of the new contractor. If, as a result of the tendering exercise for the long term provision of the service, the successful tenderer was a different organisation to the interim provider it is likely that the affected staff would transfer from the interim provider to the successful tenderer.

5. Legal Implications

- 5.1 There are no legal implications associated with options 1 or 2 that are detailed in the report at paragraph 6.15 in that the work will continue to be undertaken in house by the Council.
- 5.2 If members were minded to choose option 3, they should be aware that the EU Regulations strictly prescribe the circumstances in which a contract can be varied to include additional work. As with option 4 below, an external provider may argue that the Social Services and Education Centres do not come within those circumstances.
- 5.3 With regard to option 4, the value of the proposed 12 month interim arrangement for the Social Services and Education Centres is below the threshold for application of the EU Regulations of £154,000. However, an external provider may argue that the Regulations should apply because the Council has a requirement for a cleaning service for longer than 12 months and therefore the estimated value of the contract should be calculated by aggregating the value of the interim contract and the long term contract. The implication of this would be that the value would exceed £154,000 and therefore the interim arrangement should be tendered following publication of a contract notice in the Official Journal of the European Union.
- 5.4 On the basis that the 12 month interim contract is valued separately from the long term contract it is a low value contract for the purposes of Standing Orders and therefore can be let by seeking three competitive quotes.
- 5.5 The long term contract (on the basis of a three year contract with an option to extend for two years) is a medium value contract for the purposes of Standing Orders and the Director of Education, Arts and Libraries and the Director of Social Services have delegated authority to invite expressions of interest, agree shortlists, invite tenders and award such contracts.

- 5.6 The long term contract is a Part A Services contract and as the value would exceed £154,000 would be subject to the full application of the EU Regulations.
- 5.7 The EU Regulations do provide for exemptions in situations of urgency. However, the current situation where a unit of the Council is losing money would not come within the urgency exemptions permitted under the Regulations.
- 5.8 In the Management Agreement between the Council and Brent Housing Partnership(BHP) of October 2002, the Council delegated to BHP responsibility for cleaning of the Council's housing estates.
- 5.9 If members are minded to agree option 4, when the contract is awarded to the interim provider there will be a transfer of an undertaking in accordance with the Transfer of Undertaking (Protection of Employment) Regulations 1981. Practically, this will mean that all staff assigned to the contracts that have been awarded will cease to be employees of the Council and will become employees of the successful contractor.
- 5.10 The terms and conditions of employment that the transferring staff currently enjoy will transfer to the incoming contractor with the exception of pension entitlement which is excluded from the Regulations. However, officers will seek that an occupational pension scheme as set out in the relevant guidance is provided for transferring staff.
- 5.11 The Government's new guidance on the two tier workforce applies to this contract and so any new staff joining the contract after its commencement will be entitled to terms and conditions that are not less favourable than those of the employees who transferred initially and an occupational pension scheme as set out in that guidance, will be provided.

6. Detail

- 6.1 Brent Building Cleaning (BBC) has been an integrated unit, operating as a Direct Services Organisation and then an internal trading unit since 1994. Though the bulk of its work was always cleaning of Housing Estates, at that time its non-housing operations centred especially on a large internal customer – the College of North West London. When the Colleges were separated from local authorities most of these staff – including a supervisor – were transferred to the new organisation under TUPE.
- 6.2 This left a very small residual non-housing section, which could not possibly have operated as a viable function in its own right, but was sufficiently close to the main Housing work to share its infrastructure and supervision.
- 6.3 Government approaches to upgrading Housing stock then led to the establishment of Arms Length Management Organisations as a method of accessing capital funds

- 6.4 Brent's ALMO bids were submitted on the basis that the existing in-house cleaning service would transfer as a whole to the new organisation; but, though this was not challenged by government officials, it was later accepted that the enabling statutes covered Housing functions only.
- 6.5 Brent Housing Partnership undertook a tendering exercise earlier this year for estate cleaning contracts covering one half of the borough. Now that BHP has been in operation for 12 months, it will shortly be undertaking a tendering exercise for the remainder of the estate cleaning contracts. BBC may or may not win this work. Given this, these small non-housing operations have no future as a separate viable business.
- 6.6 Officers had previously suggested in a report to Members on 17 September 2002 the potential of Environment Services taking over some or all of the non-housing contracts. However, this did not prove to be a financial viable option for Environmental Services.
- 6.7 Indeed the option of finding any alternative council unit or service area to take over the remaining non-housing section of BBC as a whole has not proved feasible. All units approached, including those currently managing groups of manual staff, consider this function to be too far removed from their main activities to justify the resulting and necessary investment of management and support service resources and, ultimately, the financial risk given the high level of competition from the private sector in this field.
- 6.8 In addition, it became clear that separating the above functions from the main Housing based activities of BBC would result in the consequential loss of the support of personnel and payroll administration. Any receiving internal unit would need to absorb these additional demands into its own hard pressed support structures as well as providing the necessary management control and decision making on these issues.
- 6.9 The Social Services centres affected by this are the three adult learning disability day centres managed by Brent Learning Disability Partnership Unit, which is an integrated Health and Social Care service. These three Social Services centres require very thorough daily cleaning as the service users are very vulnerable, and do have complex social and or health care needs eg double incontinence etc.
- 6.10 The day centres affected by these changes will be Albert Road Day Centre, Stonebridge Day Centre and Strathcona Social Education centre. The present cleaning service is provided by internal provision from Brent Building Cleaning Services. The present service provides 80 hours cleaning per week to the three centres (30; 30 and 20 hours respectively). The day centres provide day services to 360 clients, and involves 82 Council staff, and over 18 education support staff.
- 6.11 Previous Service - For some years the service was provided by an external provider until August 2002. The service was terminated by agreement because they were unable to provide a consistent level of service or

consistent staffing levels. The centres also reviewed the need for cleaning, and concluded more hours were needed to meet the needs of more dependant users, and increased range of activities e.g. art/painting. This service has not been subject to tender or detailed service specification. As the centres had a need for an immediate replacement for cleaning, the Brent Housing Service was approached as an interim solution.

6.12 There have been no Best Value reviews into the day centre services yet. However a review is being carried out by an external consultant to look at how best to modernise the services in line with the Learning Disability 'Valuing People' requirements. This will conclude by March 2004 and may impact on future cleaning requirements.

6.13 The BACES Centres currently cleaned by BBC are the Carlton Centre, Winkworth Hall and Craven Park Road. The service required at these Centres is 40 hours cleaning per week for the Carlton Centre, 15 hours cleaning per week for Winkworth Hall and 10 hours cleaning per week for Craven Park.

6.14 The following options for the future provision of the office/day centre cleaning have been considered:-

Option 1 Housing - BBC continues to provide the service in house until an external provider is appointed following the tendering exercise.

Option 2 Social Services and BACES to take on the cleaning staff of their respective areas for the 6-12 until an external provider is appointed. This includes taking over the management responsibility of the cleaning staff which on the Social Services side will number 6.

Option 3 The service to be added to the corporate contract for cleaning buildings managed by the corporate procurement team

Option 4 Engage for 12 months an external provider until a tendering exercise can be undertaken for the longer term provision of the service.

6.15 Below is an appraisal of the above options:-

Option 1 –

The advantage of this option is that:

- (a) Cleaning of Social Services day centres and BACES will continue as now. In addition there will be no need for the service unit to take on management responsibility of the cleaners for which they have no capacity, or recruit more staff to fulfil cleaning requirements.

- (c) There will be no concern from unions as staff stay employed by the Council.

However, some significant disadvantages to emerge are:

- (a) Following the loss of recent contracts, the remaining parts of the BBC business and in particular the non-housing element is not economically viable.
- (b) Some of the non-housing work is itself not profitable and arguable results in an additional cost to the HRA.
- (c) The primary purpose of BHP is to carry out housing functions for the Council and accordingly it is not considered appropriate for BHP to undertake a cleaning service which is unrelated to those functions.
- (d) If BBC was to continue to undertake this service in the short term this would mean continuing uncertainty for staff who provide the cleaning service on the Social Services and Education Centres.

Option 2 –

The advantages of this option are:

- (a) Cleaning of Social Services day centres and BACES will continue, but agency staff will need to be recruited subject to establishment of permanent posts.
- (b) There will be minimal concern from unions as staff stay employed by the Council in the short/medium term.

The disadvantages of this option are:

- (a) Anticipated increased costs to the Council in putting in place a management structure to supervise the cleaning staff and recruiting additional staff to replace those staff that are assigned to other contracts and clean the Social Services and Education centres as additional tasks (see paragraph 4.1 for further information).
- (b) The complications for Social Services and Education of taking over management responsibility for staff in the first instance but also taking on TUPE responsibility afterwards.

Option 3 –

The benefits for this option would be that:

- (a) Cleaning of Social Services day centres and BACES will continue with the staff transferred to the contractor for the municipal building contract.

- (b) There will be no need for the service units to take on management responsibility of the cleaners for which they have no capacity, or addition on costs with increased management and new staff posts.
- (c) There will be less concern from unions if the transfer of the staff is for a longer period.

The disadvantage of this option is that it as Corporate Support do not manage the Social Services and Education Centres it would be difficult for that Unit to adequately monitor and check performance of the contractor.

Option 4

In order to evaluate the viability of this option, officers have obtained quotes from three organisations willing to undertake the service on a 12 month basis. All of these companies either currently or have previously provided cleaning services to the Council and have therefore passed the Council's minimum requirements in terms of financial stability and technical ability. The quotes have been provided on the basis of the current specifications for the buildings, the TUPE information for the affected staff and the provision of a pension scheme that complies with government guidance.

Details of the quotes provided and a comparison with the current charge by BBC is provided in the below the line appendix, Appendix 1.

The advantages of this option are:

- (a) Cleaning of Social Services day centres and BACES offices will continue with staff transferred.
- (b) In the interim, costs to the Council will be similar to the current costs.
- (c) There will be no need for the service units to take on management responsibility of the staff for which they have no capacity, or to create new posts.
- (d) An interim arrangement for 12 months will allow the Council to assess its requirements for these centres for the longer term and undertake a competitive tendering exercise.
- (e) The tender for the longer term contract will ensure fully competitive prices are sought.
- (f) It is the view of officers that the most appropriate option to ensure continuing employment and protection of terms and conditions for the non-housing contracts staff is a transfer of BBC's current cleaning operations for the Social Services and Education centres for a twelve month period to a cleaning contractor already servicing other such local authority contracts. The three companies detailed above have

therefore been approached on the basis that they are required to take over Brent Building Cleaning's contract on the same terms.

The disadvantages of this option are:

- (a) If the long term contract is won by a different contractor to the interim provider there is the potential for the affected staff to TUPE transfer twice within a 12 month period.
- (b) There is the possibility that an organisation may argue that the interim arrangement should have been tendered in accordance with the EU Regulations. Further information on this is provided at paragraph 5.3.

6.16 It is the view of officers that option 4 provides a financially viable solution for the Council whilst also ensuring that the interests of the in house staff currently providing the service are protected. Accordingly, for the reasons detailed above it is recommended that members agree option 4. If members agree this recommendation officers will need to take the following actions:

- (a) Officers will undertake an evaluation of the quotes detailed above and select the quote which is most economically advantageous to the Council.
- (b) During the twelve months of the interim arrangement officers will identify the Council's requirements for this service in the long term and undertake a competitive tendering exercise. The packaging of the contract will be finalised once this has been undertaken but it will cover the centres highlighted in the report and is likely to be for a 3 year period with an option for the Council to extend the contract for a further two year period.

7. Background Information

7.1 Executive Report 17 September 2002

7.2 Budget Monitoring Statement for September 2003

Any person wishing to inspect the above papers should contact:

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