

# LONDON BOROUGH OF BRENT

## EXECUTIVE MEETING

16.08.04

FROM THE DIRECTOR OF EDUCATION, ARTS & LIBRARIES

NAME OF WARD(S)

ALL

**REPORT TITLE: The Connexions Service in Brent**

FP Ref: -EAL-04/05-0050

### 1.0 SUMMARY

1.1 Connexions is a multi-agency partnership providing information advice and guidance to all 13 – 19 year olds through a range of providers supported by direct government grant. Presently Connexions is provided in West London by an independent company – Connexions Partnership London West Limited – but due to the urgent need to restructure the Company Board has recommended that a confederation model be implemented as quickly as possible. Under this model Brent Council would assume financial and legal responsibility for the Connexions service in the borough. The new model will ensure a tax efficient structure and be in line with proposals for the Connexions service set out in the Children Bill. This report seeks agreement to the introduction of a confederation model of operation for the Connexions Service in Brent.

### 2.0 RECOMMENDATIONS

2.1 That the Executive agree that the London Borough of Brent becomes the accountable body responsible to the DfES through the Supporting Children and Young People Group (SCYPG) for the delivery of Connexions in Brent, subject to the following issues being resolved to the satisfaction of the Director of Finance and the Borough Solicitor;

- (i) Funding arrangements with the Government Office for London
- (ii) Contractual arrangements with Lifetime Careers
- (iii) Contractual/grant arrangements with any other service providers that provide services for Connexions in Brent; and
- (iv) Any TUPE/pension implications

2.2 That the Executive delegate to the Director of EAL, in consultation with the Director of Finance and the Borough Solicitor the detailed negotiations and arrangements for the transfer.

2.3 That the Executive note the transfer process is scheduled to start on 1<sup>st</sup> September but will be completed through a staged process over the next 7 months.

2.4 That the Executive agree that there are good financial and/or operational reasons not to comply with the tendering requirements in Contract Standing Orders in respect

of the novation of the contract between Connexions Partnership London West Limited and Lifetime Careers Limited (in so far as this contract relates to the London Borough of Brent) to the Council.

### **3.0 FINANCIAL IMPLICATIONS**

3.1 This report tackles the problems which the Council faces from past Government transfer of functions from local authorities to an alternative service provider and the transfer made without adequate consideration of all the issues. The problem which the Council now faces is the possible collapse of the careers service unless local authorities can resolve the problems. In total funding terms, provided the SCYPG continue to provide adequate grant to the Council, the service can be maintained without extra cost falling on the Council. If there is not full funding of the Council's costs a rescue plan cannot be agreed or there will have to be compensating cuts in the Education service or Council tax will have to increase.

3.2 The main financial implications for the Council are:

3.2.1 It will become the recipient of the Connexions grant from SCYPG and therefore assumes greater accountability than at present for the delivery of the Connexions service.

3.2.2 The grant for Brent is likely to be in the region of £2.4 million per annum but there is no guarantee that this will cover all the costs that Council will become responsible for under the agreement. Further work is required to establish the costs that will fall on the Council.

3.2.3 In 2004/5 there is the added complication of the transfer which is to be a staged process over 7 months. The transfer will result in additional costs e.g. pensions, relocation costs etc and there is a danger that the funding received will not cover all the costs.

3.2.4 We have spoken with Customs & Excise and the model proposed will not impact on the Council's VAT position but this will need to be kept under review as the proposal develops.

3.3 In conclusion then, there has to be full and careful calculation of the cost transferring to the Council so that all costs are reimbursed and the Council does not face unfunded expenditure. The pensions issues have to be resolved.

### **4.0 STAFFING IMPLICATIONS**

4.1 If the proposals in this report are implemented there will be a staged process of transferring budgets and resources from the Connexions Partnership London West Limited ("CXLW partnership") to local authorities over the next 7 months. It is anticipated that this may involve the deployment of up to 3 additional staff within the local authority as a result of TUPE transfer. In this event the employer obligations in this matter will need to be addressed, including pension arrangements.

### **5.0 LEGAL IMPLICATIONS**

5.1 The Connexions service is based on powers given under section 114 of the Learning and Skills Act 2000 to the Secretary of State to provide or secure the provision of services to encourage, enable or assist participation by young persons in education

or training. One way the Secretary of State may do this is by making arrangements with, or giving directions to, Local Authorities. Under section 116 of that Act, for the purposes of any such arrangements or to comply with directions, local authorities have broad powers including power to establish companies.

5.2 In taking responsibility for the delivery in Brent of the Connexions service, the local authority will need to comply with two key documents:

(a) The Financial Memorandum. This is the primary funding document and specifies the conditions of the grant funding and the framework for control and governance of the funds. Each Memorandum covers a three year period. The Connexions Company is bound by this document currently for the 2004/5 financial years in respect of the area covered by the local authorities in the partnership. If the proposals in this report are implemented, the Council will sign up to the Memorandum with Government Office for London (which acts as the contracting body on behalf of SCYPG) in respect of the funding received for the Connexions Service in Brent from 1.9.04. The Memorandum shares many of the characteristics of other government grants arrangements, for example, that funds will be used for Connexions purposes only, the nature of accounting information to be received, that the funding can be audited by government auditors etc. Members should note that if the conditions of grant are not complied with the Secretary of State may claw back grant already paid, provided this is not unreasonable. Claw back may also take place if performance in delivery of the Business Improvement and Delivery Plan, which is required for funding to be agreed, is unsatisfactory.

(b) The Requirements and Guidance for the Connexions Service published by SCYPG. This is, in effect, the Connexions service specification document, which describes what a Connexions service should deliver, how it should deliver it and how the performance of the service is measured. Much of this is encapsulated by the Connexions Business Plan for an area. Given that the Confederation Model entails the production of a Business Plan for the London West area, and that the Financial Memorandum and Requirements and Guidance are linked documents (each cross refers to the other), it will be important that borough plans and the Business Plan for the London West Area are aligned. Legal Services understand from officers in Education, Arts and Libraries that experience to date of local Connexions plans and the pan West London Business Plan suggest this will not be a major issue.

5.3 Legal Services understand from officers in Education, Arts and Libraries that other than some relatively small scale contracts and grants with community and voluntary groups (typically less than £30k per annum), the key arrangement which the local authority will enter into a contract for will be with the guidance company Lifetime Careers Ltd. The contract between Lifetime Careers Ltd and Connexions Partnership London West Limited has a total value in excess of £2.7m and expires on 31 March 2005 but can be extended by the agreement of both parties.

5.4 Under this contract Lifetime Careers provides services not only to Brent but also the London Boroughs of Ealing, Hammersmith and Fulham, Harrow, Hillingdon and Hounslow although in practice officers in Education, Arts and Libraries advise that Lifetime Careers provides services specifically to Brent and Harrow. Accordingly, it will not be possible to simply novate this contract in its entirety. Work will need to be undertaken to ascertain what proportion of the contract price payable to Lifetime

Careers is attributable to Brent and the novation agreement will need to make clear that it is in respect of services in the area of the London Borough of Brent. It is anticipated that the novation would be effective from 1 September 2004. Legal Services will need to work closely with the Director of Education, Arts and Libraries in relation to this.

- 5.5 This contract has evolved from the pre-Connexions careers service contract to take in a broader Connexions remit, but still covers many of the service areas (careers support in schools, operation of Connexions (ex-careers) centres, job vacancy handling etc) that existed pre-Connexions. This contract has not undergone a robust Best Value Review since the start-up of Connexions.
- 5.6 The contract does not have an output-related payment element and many of its terms and conditions reflect elements of the Financial Memorandum and Requirements and Guidance for the Connexions Service (i.e. many risk elements imposed by SCYPG are passed onto the contractor). As such, in many respects, the level of risk within the contract is lower than other public services contracts. .
- 5.7 As the legal effect of novating the contract from Connexions Partnership London West Limited to the Council (in so far as the contract relates to the London Borough of Brent) is to create a new contract between the Council and Lifetime Careers it is necessary to consider the application of the EU Regulations and Contract Standing Orders. In terms of the EU Regulations this is a Part B contract and therefore is subject to only partial application, namely non discrimination in the technical specification and publication of an award notice. However, the value of this contract will be in excess of £150,000 over its lifetime and accordingly there is a presumption in Contract Standing Orders that the Council should undertake a tendering exercise to choose the service provider. However, Standing Order 85(a) permits the Executive to find that there are good financial and/or operational reasons why a tendering exercise should not be undertaken.
- 5.8 While there appears to be no difficulty with the principle of what is proposed or with the legal powers which underpin it, clearly there are a number of practical issues which can only be resolved if the constituent Boroughs are in agreement and in co-operation with the Company and the other parties to the existing contracts. Not least of these is the disaggregation of existing assets and liabilities, including provision for future liabilities not yet identified.
- 5.9 Detailed consideration will need to be given to the possible application of the Transfer of Undertaking Regulations to the proposed process and the possible need to make equivalent pension arrangements for any staff of the Company who do transfer.
- 5.10 Further, the Council will need to establish the extent of the contracts and grant arrangements which it will inherit and the financial and other risks that attach to those contracts and grants. This will be somewhat problematic, particularly if existing contracts need to be split on a geographic or other basis, as the agreement of other parties to those arrangements will be needed.

- 5.11 With regard to future funding arrangements, there will need to be auditable arrangements to track and monitor the services which are purchased and for monitoring outcomes.
- 5.12 It would be preferable for the issues raised above to be addressed prior to a decision being taken as to whether or not the Council should become the accountable body for the delivery of connexions in Brent. However, Legal Services understand from officers in Education, Arts and Libraries that due to the tight time constraints with the transfer process this is not possible. Accordingly, members will note that the recommendation in this report is subject to the resolution of these issues to the satisfaction of the Borough Solicitor and the Director of Finance.

## **6.0 DETAIL**

- 6.1 The London West Connexions Partnership was set up as a limited company by guarantee in September 2002 (Connexions Partnership London West Limited). Its purpose is to provide guidance and advisory services to young people aged 13 –19 in the six west London boroughs. The Partnership contracts with Careers Companies for careers guidance and with Local Authorities for advice and support work in Education, Social Services, Youth and Housing services. Membership of the Board comprises the six Directors of Education, the Chief Executives of the Careers Companies, school and college representatives, London West Learning and Skills Council Chief Executive and health, police and voluntary sector representatives. It is chaired by an independent Chair.
- 6.2 As part of the wider public sector efficiency review, the Connexions service nationally has been asked to identify £40m annual savings over the next 2 years. The Supporting Children and Young People Group (SCYPG) within DfES (which holds national policy responsibility for Connexions) has chosen to make £25m of these savings by reducing a VAT subsidy “cushion” to Connexions partnerships in 2004/05 and 2005/06. In summary, Customs and Excise has changed the tax status of the Connexions services, and as such, any VAT incurred by a Connexions partnership on its expenditure cannot be reclaimed from Customs and Excise. In making the funding announcement, SCYPG encouraged partnerships to move to more tax efficient structures that would mitigate this VAT problem. This irrecoverable VAT amounts to approximately £1.6m per annum across the six boroughs (Brent, Ealing, Hammersmith and Fulham, Harrow, Hillingdon and Hounslow) in the London West area.
- 6.3 Simultaneous to this announcement, the Government published “Every child matters: next steps” and the contents of the Children Bill. This announcement has set out clearly that local authorities will have a much more integral role in planning and managing the procurement and delivery of Connexions services in the future. Each Local Authority will have responsibility for coordination of Children’s Services within its area, including the Connexions Service.
- 6.4 Having considered these two major developments, the Company Board of Connexions London West, of which Brent Council is a member, has approved a move to a confederation model of planning and managing services in the West London area.

## **Confederation Model – Outline**

6.5 In summary, the Confederation Model will consist of:

- An integrated vision, strategy and Business Plan for Connexions in the London West area, building on progress to date.
- New arrangements which will accelerate the joining-up of services to young people at a borough level in response to the recent Children Bill.
- Each local authority becoming the “lead body” in its own borough with an accountable body relationship with SCYPG via GOL.
- Local authorities holding contracts / grants with guidance companies and community/voluntary organisations to deliver services in their boroughs (in addition to some local authority direct delivery). These are subject to Best Value and value-for-money reviews.
- A central co-ordinating and quality assurance function continuing to exist, but its role becoming increasingly a central services role supporting individual borough plans, rather than a leading role in directing the service across the West London area. This centralised function will be the subject of further discussions amongst the West London Boroughs and a further report will be submitted to the Executive once a clear proposal has been agreed.

6.6 Because this Model tackles both tax efficiency (utilising local authorities’ special VAT status in line with section 33 of the VAT Act 1994), and points the way to how services to young people could evolve across the country in the future, it has received an initial positive response from SCYPG and GOL.

### **Implications for Local Authorities**

6.7 The main implications for the local authority in moving to this Model, other than the transitional issues described in the Legal Implications section, are:

- It will become the recipient of the Connexions grant from SCYPG and therefore assumes greater accountability than at present for the delivery of the Connexions service (see below). At present, the Connexions grant for the 6 London West boroughs totals £12.7m. Initial work to disaggregate Connexions London West’s budget indicates the grant for Brent is likely to be in the region of £2.4 million per annum. It will assume responsibility for the contract with Lifetime Careers for the delivery of Connexions services such as careers guidance/support in schools, the running of Connexions centres etc. This contract accounts for approximately two-thirds of all Connexions funding and resources in the area. In addition, the local authority is likely to take on responsibility for Connexions services contracted to community/voluntary sector organisations (for example, specialised services for specific disadvantaged groups).

- Connexions services currently delivered by local authorities (for example, Personal Advisers located in youth services and employed by the local authority) would cease to be contracted by the CXLW partnership.
- Where needed, it will become a procurer of additional services to support the management, quality assurance and delivery of Connexions services in the area.
- Connexions Partnership London West Limited being wound up.

### **Benefits to Local Authorities**

- 6.8 Whilst there will be a continued need to align to national policies and the West London strategy for Connexions, the move to the Confederation Model provides a significant opportunity to plan Connexions services and integrate these more effectively with other local authority services at a borough level. This will include a greater influence on how Connexions funding and resources are deployed in the borough to support local priorities.
- 6.9 In addition, in taking contractual responsibility for the main guidance company Connexions contract (see below) and assuming greater local ownership and resources for activities hitherto carried out at the Connexions London West centre, opportunities may exist to strengthen the efficiency and effectiveness of services and optimise the level of resources available for front-line service delivery.
- 6.10 It is proposed to locate the service in the Education, Arts and Libraries Department, given its key focus on providing support to young people in respect of the education, training and employment needs. There will be a need to review the role of the present Local Connexions Manager and create a small team to provide the service. It may be that TUPE will apply to staff currently employed by Connexions Partnership London West Limited.
- 6.11 The Local Management Committee (“LMC”), which is a multi-agency group including representatives from EAL, Social Services, Public Health, Schools, College, Youth Offending Service, Housing, Voluntary Sector and Lifetime Careers, will be reviewed. The LMC will contribute to the Business Plan, the principles for resource allocation and contracting and ensure that service delivery is joined up and coherent. New terms of reference will be developed to reflect its new responsibilities.
- 6.12 There will be a carefully managed change management project plan and process to ensure continuity of services and support to young people, schools and other local stakeholders during the transition stage. To that end, it is intended not to make any major changes to activities or services contained within the 2004/05 Connexions London West Business Plan
- 6.13 Plans and structures will need to be put in place to ensure that the views and voices of young people are factored into the shape and quality of the Connexions service as it develops. This is a key national policy pre-requisite for managing the delivery of Connexions services

- 6.14 In recommending this proposal to the Executive, it should be noted that a number of alternative options (for example, a single local authority lead body for all six London West boroughs or a joint venture/"loose partnership" arrangement) have been considered. None of these have the combination of achieving the benefits outlined in Section 6.7 to 6.11 whilst reducing the risks and liabilities outlined in Sections 4 and 5. Critically, doing nothing at this stage will result in a reduction of available annual funding of £1.6m (cushioned by SCYPG to £1.1m in 2004/05) to support young people across the West London area and will result in both service cuts affecting a wide cross-section of young people, including many vulnerable groups.
- 6.15 Good financial and / or operational reasons for not undertaking a competitive tendering exercise are;
- Lifetime Careers won the original contract for Brent as the result of a tendering exercise.
  - The transfer needs to take place on 1<sup>st</sup> September 2004 because this is when VAT subsidy ceases and costs begin to be incurred. All six Local Authorities aim to act in concert in signing new contracts and have concluded there is no time to undertake a tendering exercise.
  - Monitoring of the performance of Lifetime Careers over 2002/3 and 2003/4 by GOL shows the company performing well and giving good value for money.
  - GOL are satisfied that it is in the best interests of young people and business continuity that the contract should be transferred from Connexions London West to Brent Council.

## **7.0 DIVERSITY ISSUES**

- 7.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

## **8.0 BACKGROUND INFORMATION**

The following papers were used in the compilation of this report:-

- i) Contract between Connexions London West and Lifetime Careers.
- ii) Connexions Board papers.
- iii) Financial Memorandum from GOL.

Any person wishing to inspect the above papers should contact  
(Name of officer, address, telephone, fax and E-mail).

**EXEC-12.07.04/FP Ref: 04/05-EAL0050/AUTHOR/TYPIST/Lead Officer J. CHRISTIE**