

**LONDON BOROUGH OF BRENT**

**EXECUTIVE MEETING**

**14.9.04**

FROM THE DIRECTOR OF EDUCATION, ARTS & LIBRARIES

NAME OF WARD(S)

ALL

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

FP REF: EAL

**1.0 SUMMARY**

1.1 This report provides members with updated information concerning the proposal for the Council to become the accountable body in respect of the Connexions Services in Brent and for a new model for co-ordinate the provision of the Connexions service in West London. The report seeks the approval of the Executive to the proposed new arrangements.

**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 the other service providers that provide services for Connexions in Brent as set out in paragraph 6.15 and Appendix 1; 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 that the Financial Memorandum between the Council and SKYPG and main contractual documentation is scheduled to be completed to come into effect on 1 October 04 although the full confederacy model described in the report will be completed through a staged process over the next 6 months.

2.4 That the Executive agree that there are good financial and/or operational reasons not to seek 3 written quotes in accordance with Contract Standing Orders in respect of the novation of the contracts identified in paragraph 6.18 of this report to the Council.

- 2.5 That the Executive agree that the Council take over responsibility for the Grant Agreements set out in Appendix 1 from the date on which the Financial Memorandum comes into effect.

### **3.0 FINANCIAL IMPLICATIONS**

- 3.1 The main financial implications for the Council are:

- 3.1.1 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. The service can be provided more effectively because there will be reduced VAT liability.
- 3.1.2 The grant for Brent is likely to be in the region of £2.4 million per annum. It is expected that the Connexions grant will cover all expenditure. Activity to meet targets will be tailored to the grant received and costs will be maintained within the grant figure. For 2004/5 current and forecast expenditure is within budget. For 2005/6 Brent is expected to receive growth in real terms. If in future there are reductions in grant, activity will be reduced in its contract to contain expenditure within the contract figure.
- 3.1.3 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 which again will need to be covered by the grant.
- 3.1.4 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.

- 3.2 In conclusion then, there will be full and careful calculation of the contract 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 it is likely that one person will transfer to the Council as a result of TUPE transfer. In this event the employer obligations in this matter will need to be addressed, including pension arrangements. One additional person may also transfer to the Council if the Council agrees to be responsible for a defined area of work for the other boroughs in the West London Connexions Partnership as described in paragraph 6.5.

### **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 It is proposed that the existing contract between Lifetime Careers Ltd and Connexions Partnership London West Limited, which has a total value in excess of £2.7m and expires on 31 March 2005, will be novated to the Council in so far as it relates to the Brent area. The contract is currently not limited to service provision in Brent. Work is being undertaken to ascertain what proportion of the contract price payable to Lifetime Careers under the contract is attributable to Brent. It is anticipated that the novation would be effective from 1<sup>st</sup> October 2004.
- 5.4 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.

- 5.5 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.
- 5.6 As the legal effect of novating a contract is to create a new contract between the Council and the provider it is necessary to consider the application of the EU Regulations and Contract Standing Orders to these contracts. The contracts referred to in paragraph 6.15 all have a value of between £20,000 and £149,999 over their lifetime and are low value contracts for the purposes of Standing Orders. They are not required to be tendered under the EU regulations. Contract Standing Orders require that at least 3 written quotes must be sought when seeking a provider for Low Value Contracts. However, Standing Order 85(a) permits the Executive to find that there are good financial and/or operational reasons for not seeking quotes in a particular case. The Executive has already agreed at its meeting of 16<sup>th</sup> August 2004 that the tendering requirements of Standing Orders which would apply to the novation of the contract with Lifetimes Careers need not be complied with.
- 5.7 Although officers are able to present far more detailed information in this report than was possible in the report considered by members on 16<sup>th</sup> August there remain a number of matters to be resolved. 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 Executive considered a report at its meeting of 16<sup>th</sup> August 2004 concerning the proposals in this report and officers are now able to report back with further and more detailed information concerning them.
- 6.2 As described in the previous report to members 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.
- 6.3 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.

- 6.4 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.
- 6.5 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**

- 6.6 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. In the short term it is likely that the Connexions London West Company will provide these central services to the boroughs under contract. It is anticipated that a draft of the proposed contract will be circulated shortly.
  - An advisory body likely to consist of representatives of the bodies currently represented on the Company Board.

- Certain functions which are not provided as part of the central function but in respect of which economies of scale can be achieved through provision by one borough on behalf of the others in the Partnership, being provided by individual boroughs.

6.7 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 a positive response from SCYPG and GOL. A revised version of the Financial Memorandum amended to take account of the new model to be signed by each borough is awaited from GOL. The indication given so far is that it will be very similar to the existing memorandum signed by the Connexions Company.

### **Implications for Local Authorities**

6.8 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 possibly being wound up, although probably not before the end of March 2005.

### **Benefits to Local Authorities**

6.9 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.

- 6.10 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.
- 6.11 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 one or two members staff currently employed by Connexions Partnership London West Limited.
- 6.12 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.
- 6.13 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 which has been approved by GOL.
- 6.14 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
- 6.15 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 6.9 to 6.12 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.
- 6.16 In addition to the contract with Lifetime Careers Limited the following additional contracts are proposed to be novated to the Council:

### Oxford Kilburn Club

The Oxford and Kilburn contract is for .5 of a Personal Advisor post and the maximum price is stated as £23,912.00. The Personal Advisor is expected to support all young people using the projects services from Brent and surrounding boroughs.

### Kilburn Youth Centre

There are two contracts with Kilburn Youth Centre. One is stated to be for a personal advisor situated at 1<sup>st</sup> Floor, 269 Kilburn High Road and has a maximum stated price of £30,000. The other contract is for 0.5 Personal Advisor post shared with the Oxford and Kilburn Club and has a stated maximum price of £23,912

### Brent Centre for Young People

The contract with this project is for a Personal Advisor post based at Johnson House in Kilburn. The stated maximum in this contract is £47,824.

6.17 The contracts are identical and all expire on 31 March 2005, although they can be terminated earlier by giving 180 days notice or, in certain specified circumstances, in the event of the contractor failing to perform the contract. The payment mechanism as described in the contracts is slightly unclear. However, officers in Education, Arts & Libraries understand that in practice payment under the contracts is monthly and is on the basis of reimbursement for expenses incurred by the contractor under the headings of salaries, administration, premises, capital and other. Payment is capped at the maximum stated in each contract but is only made for expenses actually incurred by the contractors. Unfortunately, there are two clauses in the contracts dealing with liability that are contradictory. It is not clear which clause would be effective in the event of a dispute but the least favourable to the Council would limit the Contractor's liability to direct loss and would be capped at £1m for any one event or £2.5m in any 12 month period. There are a number of requirements in the current Financial Memorandum that are not reflected, or not fully reflected, in the contracts. In particular the clawback provisions in the Memorandum are more comprehensive than those in the contracts. The contracts could only be amended to address these points with the agreement of the Contractors. If the Secretary of State did exercise its powers (particularly the claw back power), the effects could be severe. However, as the Secretary of State very rarely exercises the punitive powers available to it in grant agreements and the time remaining on the contracts is approximately six months, the risks associated with these discrepancies are minimised.

6.18 Good financial and / or operational reasons for not seeking quotes in respect of these contracts are;

- the contracts were awarded by the Connexions Board following an open bidding process.
- The transfer needs to take place as soon as possible because the VAT subsidy ceases from 1<sup>st</sup> September 2004 and costs begin to be incurred from then. 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 under these contracts over 2002/3 and 2003/4 by Connexions and GOL shows the providers 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 contracts should be transferred from Connexions London West to Brent Council.

6.19 There are five contracts under which Brent provides services to the Connexions company. From the date of the transfer effectively these services will be provided in house although the contracts will need to be formally brought to an end.

6.20 There are also a number of grant agreements which it is proposed the Council will become responsible for. Brief details of these are set out in Appendix 1. The agreements/grant conditions covering these grants are very short and not as comprehensive as the Council would normally put in place. They do not fully reflect the obligations the Council will have under the Financial Memorandum. However, a much smaller amount of money is involved in these grants than in the contracts described above (a total of £34,452.58) and the risk is therefore less significant in the unlikely event of a clawback occurring.

## **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) Contracts referred to in paragraph 6.16, 6.19
- ii) Grant agreements referred to in paragraph 6.20
- ii) Connexions Board papers.
- iii) Financial Memorandum from GOL.

Any person wishing to inspect the above papers should contact

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## APPENDIX 1

<b>Stonebridge Area Youth Project</b> Company Limited by guarantee Registered No. 04219104	7,783.54	1/8/4 – 31/3/5	Practical and technical radio and music production skills and drama and social development skills
<b>Hornstars</b> Company Limited by guarantee Registered No. 04921997 Registered charity number 1104931	7,783.54	1/8/4 – 31/3/5	To recruit a worker to support outreach towards NEET young Somalis
<b>Fairbridge in London</b> (possibly part of Fairbridge registered charity number 206807)	5,000.00	1/8/4 – 31/3/5	Residential course for 10 NEET young people or at risk or being excluded from or dropping out of school to motivate them to access employment/education/training
<b>Brent Bereavement Services</b> Charity registration number 296299	5,885.50	1/8/4 – 31/3/5	To recruit a worker to support outreach towards NEET young Somalis
<b>BTWSC</b>	8,000.00	1/8/4 – 31/3/5	For 2 x 12 weeks innovative music business training for NEET 16-19s esp. BMEs