

	<p style="text-align: center;">Executive 12th February 2007</p> <p style="text-align: center;">Report from the Director of Children and Families</p>
<p>For Action Wards Affected: ALL</p>	
<p>Review of Play Services</p>	

Forward Plan Ref: C&F-06/07-019

1.0 Summary

- 1.1 This report concerns the future delivery of play services in the London Borough of Brent following an independent strategic review of the current method of delivery of such services in Brent which was commissioned by Officers.
- 1.2 This report requests approval to invite and evaluate tenders in respect of the provision of play services in the London Borough of Brent, as required by Contract Standing Orders 88 and 89.

2.0 Recommendations

- 2.1 The Executive to note the results of the strategic review of the current delivery of play services in Brent, which are outlined in paragraphs 3.9 and 3.10 of this report.
- 2.2 The Executive to approve the recommendations for the future delivery of play services in Brent, as outlined in paragraph 3.12.
- 2.3 The Executive to give approval to the pre-tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 3.18 of this report.
- 2.4 The Executive to give approval to Officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in paragraph 2.3 above.

- 2.5 The Executive to authorise the Director of Children and Families to:-
- (a) decide which parts (if any) of the service currently provided by the Brent Play Association are to be delivered in-house rather than be included in the new contract to be tendered.
 - (b) decide whether the function of Brent Pay Service's Quality and Training Officer is to be included in the new contract to be tendered or is to remain delivered in-house.

3.0 Detail

Background

- 3.1 The approach to the well-being of children outlined in the Government's 'Every Child Matters: Change for Children' policy document places the provision of Play Services as having a central role in helping to deliver positive outcomes for all children (being healthy, staying safe, enjoying and achieving, making a positive contribution and achieving economic well-being). The Government's 'Time for Play' publication also stresses the importance of local authority Play Strategies, and links to Children and Young People's Plans.

Furthermore the Council has a statutory duty and power to provide out of school childcare to children in the London Borough of Brent under the Childcare Act 2006, the Children Act 1989, the Children Act 2004 and the Disability Discrimination Act 2005. Brent Council's Children's Play Service, now referred to as the Council's Out of School Support Service ("Brent Play Service") fulfils that statutory duty and exists to extend, develop and improve opportunities to play and learn in safe yet stimulating environments.

Brent Play Service aims to:

- (a) Extend, develop and improve opportunities for children to play in safe, stimulating play and childcare settings.
- (b) Support the objective of raising educational standards of achievement by extending opportunities for learning outside the normal school day and year.
- (c) Bring together a range of activities, disciplines and interests to promote closer working around the key theme of children and young people's enjoyment and achievement through play and recreation.
- (d) Ensure good communication and effective relationships with all agencies whose work will enable Brent Play Service to achieve its purpose.
- (e) Ensure all children have access to Play environments.

- (f) Implement the aims and objectives of the Brent Play Strategy (2005 – 2008), approved by the Executive on 12th September 2005.

3.2 Brent Play Service currently manages:

- (a) Ten after school clubs, three breakfast clubs and nine holiday play schemes (delivered by the Brent Play Association – see paragraph 3.3 below) involving more than 1,000 children;
- (b) Three term-time after school/breakfast clubs and three holiday play schemes for children with special needs offering a service for more than 150 children (such play schemes being included within the schemes noted above in (a));
- (c) Operational management support for an adventure playground;
- (d) A purpose-built multi-sensory room for children with special needs;
- (e) A purpose-built narrow boat (owned by the Brent Play Association) for environmental study which carries over 350 children a year;
- (f) A National Vocational Qualification assessment and training centre offering play work course places for up to 40 trainees a year; and
- (g) Support services to the non-maintained sector (being the sector where there are voluntary, private and independent playgroups and nurseries providing education and care for the under-fives) to encourage the development of new play and childcare places, to help sustain existing play and childcare places and to ensure all provision is of the highest quality.

Brent Play Association provides the services described at 3.2 (a) to (e) above, with Brent Play Service providing those services outlined at (f) and (g).

In summary, Brent Play Service provides support to a range of play schemes delivered across Brent, including those schemes delivered by the private sector and community/voluntary groups, including faith groups and schools. However, it has a more intensive management and support role with play schemes delivered by the Brent Play Association (“BPA”).

- ### 3.3
- BPA is a registered charity and company limited by guarantee that delivers on behalf of the Council the play services detailed at paragraphs 3.2(a) to (e) above. For these play services, the Brent Play Service management team manages the services and BPA staff deliver them, employing the Play Workers, for example. BPA also owns and maintains some assets, such as the John Lyon narrow boat and a minibus, which are used to support Brent play schemes.

- 3.4 The majority of Brent Play Service's funding is passed to BPA to deliver the play services commissioned by Brent Play Service. The nature of the relationship between Brent Play Service and BPA has to date been more akin to a working partnership arrangement and is governed by an agreement dating back to 1 April 2001, which has been reviewed recently by Legal Services as part of a strategic review undertaken by Officers (see paragraphs 3.8 – 3.11 below).

The current play service structures in both Brent Play Service and BPA as well as service delivery arrangements have evolved over many years and have often had to respond flexibly and creatively to changes in national and local policy and in funding availability.

- 3.5 The policy direction of the Government's Every Child Matters: Change for Children policy document, the creation of Brent Council's Children and Families Department and the Brent Children and Young People's Plan have all provided an impetus to ensure that Brent has an effective Play Service unit in the future, with structures and service delivery arrangements that will support the broader Every Child Matters agenda in Brent and with transparent and clearly accountable arrangements in place to deliver play services within the overall Brent Play Strategy.
- 3.6 In the 2005/06 financial year Brent Play Service was relocated to the Achievement and Inclusion Division of the new Children and Families Department in Brent Council, and from April 2006 Brent Play Service has formed part of the Connexions and Out of School Learning section.

Strategic Review

- 3.7 A strategic review of Brent Play Service was commissioned by the Assistant Director, Inclusion and Achievement, Children and Families Department in June 2006 to provide recommendations for future structural and service delivery arrangements that would be effective, efficient and accountable and that would drive the achievement of play service objectives within the broader Brent Children and Young People's Plan and Brent Play Strategy. The review was undertaken by an independent consultant with assistance from Legal Services and took place between June and October 2006.
- 3.8 The strategic review of play services in Brent included the mapping of current governance, structural, legal, contractual, funding and service delivery arrangements. The review included interviews and information collection covering Brent Play Service management, BPA, other Council specialist departments and relevant partner agencies. The development of options for future arrangements followed an analysis of structural and service delivery models for Play Services utilised by other similar local authority areas and a management review workshop to assess these options.

- 3.9 The main findings of the review identified a number of strengths in the present arrangements with BPA. These included the access to both statutory and voluntary funding sources provided by the current arrangements, the cost efficient delivery of play services through the community/voluntary sector, the commitment, experience and knowledge present in the Brent Play Service management team, the external perspective brought to the service through the involvement of the BPA trustees and the economies of scale that Brent Play Service has in being able to co-ordinate across a range of provision. Play service delivery was perceived by stakeholders who took part in the review to be of good quality.
- 3.10 The main findings of the review also identified a number of weaknesses and areas for potential development, including the need to improve the clarity and transparency of the relationship between Brent Play Service and BPA, the need to clarify the accountabilities of staff in both organisations, the need to bring the arrangements within the Council's procurement policies and monitoring arrangements and the need to improve monitoring and performance information flows.

Findings from the review also identified the potential to develop more effective co-ordination and joined-up working in a number of areas and the potential for improvement in service delivery, as identified through recent OfSTED reports which graded BPA play schemes as satisfactory. In addition, the review identified the need to improve the agreement documentation between Brent Play Service and BPA for the benefit of all parties. Action has since been taken to progress this latter recommendation with support from Legal Services.

Recommendations Resulting from the Strategic Review

- 3.11 The strategic review provided a number of alternative models for delivery of the play services currently delivered in Brent by BPA. These included:
- (i) retaining the existing working partnership model with BPA;
 - (ii) bringing the play services in-house; and
 - (iii) developing a client/provider model (including a detailed service specification) to be put in place either through revising the present arrangements or by undertaking a full competitive tendering process.
- 3.12 Following consideration of the play service delivery options outlined above, the Officer recommendation to the Executive is that:
- For the period April 2007-March 2008 the current arrangements are developed and improved with revised agreement

documentation prepared and agreed as between Brent Play Service and BPA; and

- From April 2008 the client/provider model for delivery of play services in Brent should be adopted, with the provider being selected through a two-stage competitive tendering process to be undertaken in accordance with the EU Procurement Rules and the Council's constitutional requirements per the timetable set out in paragraph 3.16 below.

3.13 Continuing the current service delivery arrangements with BPA, but with the identified improvements being made, will ensure continuity of the play service for an interim period during which the planning and tendering of the new contract can be undertaken. The client/provider model will provide a framework to maximise the resources available for play service delivery, strengthen the effectiveness and quality of play schemes in the borough and address the areas for development outlined in 3.10 above, as well as providing the opportunity to secure improved value for money.

3.14 In respect of the procurement of a new contract for the delivery of the play services in Brent, a clear specification of play schemes to be delivered, including number and type of schemes, number of places, ratios of places to play workers, ratios of managers to play staff, and quality standards, will be developed. The development of a clear specification will provide an opportunity to help ensure that there is consistent and adequate play provision in all parts of the borough, and that appropriate play provision is put in place for children with disabilities and special needs.

For the new contract, it is envisaged that there will be a full-time Brent Council manager with specific responsibility for the delivery of play services in Brent who would both manage the new contract and act as a strategic link with other Council developments and services. Further consideration needs to be given as to whether a further resource of 0.5 – 1 full-time equivalent post would be needed to support quality and workforce development in the play service within Brent Council as part of the Council's wider role in providing advisory support to play schemes across the Borough. See section 7.0 below for further comment on staffing implications. It is envisaged that these posts may in future be located in Chesterfield House.

3.15 Funding to support the implementation of the recommendation to adopt a client/provider model would be sourced from the existing core Brent Play Service budget and other Council funding streams such as the Council's Early Years Service and the Brent Children's Fund Partnership. Additional funding may also be sourced from the Big Lottery Fund, subject to confirmation (expected early February 2007)

that a funding bid application submitted by Brent Play Service in 2006 was successful.

The Tendering Process

3.16 The tendering process will broadly follow PRINCE2 project planning principles.

Work carried out by the consultant in preparing the report for the strategic review of Brent Play Service has included consultation with key stakeholders in the local play services sector, plus comparisons and benchmarking with other local authorities in London.

A project management group will be established for the procurement of the new play services contract. Membership will include representatives from the Children and Families Department, Legal Services, Procurement and Finance. This group will carry out and support the tender process.

3.17 Subject to all necessary approvals being obtained, and in line with the Council's Standing Orders and the EU Procurement Rules, the new contract will be procured following the two-stage (restricted) tendering procedure. From the experience of another Borough, it is anticipated that the number of expressions of interest that the Council will receive for the new contract is likely to be in the region of 3 – 5.

3.18 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service	<p>Detailed work will be undertaken to develop the exact specification to be tendered. At this point in time we envisage that the specification will encompass the following broad areas:-</p> <ul style="list-style-type: none"> • Infrastructure support - provision of information, advice, support to organisations in all sectors operating play schemes in Brent • Support for out of school provision for children with special needs • Development work to support new and existing places and play schemes • Quality assurance of play schemes • Provision of a National Vocational Qualification Play Work Assessment and Training Centre

Ref.	Requirement	Response	
		<ul style="list-style-type: none"> • Play worker training • Workforce development of play workers and other play service staff • Brent Big Play Projects funded through the Big Lottery Fund, including delivery of new play schemes • Holiday play schemes for children with disabilities • The provision of self-financing play schemes and after-school provision (e.g. those schemes funded by parents) 	
(ii)	The estimated value	£1,160,000 for the initial two-year period £1.96 million for the two year period including the option to extend up to a further two years	
(iii)	The contract term	The initial contract term will be 2 years (from 1 April 2008 to 31 March 2010) with an option for the Council to extend the initial term by any number of periods up to an aggregate of 2 years making a total possible contract term of 4 years.	
(iv)	The tender procedure to be adopted	The two-stage (restricted) procedure.	
(v)	The procurement timetable	Activity	Indicative Dates
		Advert placed in press and Pre Qualification Questionnaire ("PQQ") issued	June 2007
		PQQ/Expressions of interest returned	July 2007
		Shortlist drawn up in accordance with Council's approved criteria	July 2007
		Invite to Tender	July 2007
		Deadline for receipt of tender submissions	17 September 2007

Ref.	Requirement	Response	
		Panel evaluation and interviews / presentations	Early October 2007
		Panel Decision	Mid October 2007
		Report recommending contract award circulated internally for comment	October 2007
		Executive approval	November/December 2007
		Contract Start Date	1 April 2008
(vi)	The evaluation criteria and process	<p>Shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines, namely by evaluation of the PQQ, thereby meeting the Council's financial standing requirements, technical capacity and technical expertise.</p> <p>The panel will evaluate the tenders against the following proposed evaluation criteria:</p> <ul style="list-style-type: none"> a) Price/cost b) Proposed methods of service delivery including proposals for innovation in service delivery c) Track record in similar types of work including: <ul style="list-style-type: none"> • Quality of service delivery and service management • Implementation plans and project management • Experience of providing services to culturally diverse communities and children with disabilities • Flexibility in service provision • Record keeping and adherence to procedures • References • (d) Staff recruitment, induction, training, supervision and Equalities issues 	

Ref.	Requirement	Response
		<p>(e) Understanding of child protection issues</p> <p>(f) Business continuity arrangements in the event of a new contractor being appointed including staff transfers</p> <p>(g) Compliance with Health and Safety regulations</p> <p>The contract will be awarded on the basis of the tender that is the most economically advantageous to the Council – a decision to be made by the tender evaluation panel described in paragraph 3.16 above.</p>
(vii)	Any business risks associated with entering the contract	<p>The following business risks are considered to be associated with entering into the proposed contract.</p> <p>Future funding, other than that yet to be confirmed by the Big Lottery Fund, is not secured as far forward as 2010 – elements of funding, such as that sourced from the Council's Early Years Service, are known only until March 2008. Therefore the conditions of contract will need to address this issue to ensure that the service can be varied in the event of a reduction in funding.</p> <p>Financial Services and Legal Services have been consulted concerning this contract.</p>
(viii)	The Council's Best Value duties	Undertaking the proposed competitive tendering process will assist the Council in achieving Best Value.
(ix)	Any staffing implications, including TUPE and pensions	See section 7.0 below.
(x)	The relevant financial, legal and other considerations	See sections 4.0, 5.0 and 6.0 below.

4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500,000 or works contracts exceeding £1 million shall be referred to the Executive for approval to invite tenders.
- 4.2 The anticipated annual contract value for the new play services contract will be approximately £580,000. The estimated contract value over the four year life of the contract (including the optional extension of up to two years) will therefore be £1.96 Million (£1,160,000 for the initial two year period).
- 4.3 Brent Play Service has a core budget of approximately £250,000 per annum, the majority of which is spent on staffing and associated costs. An additional £250,000 approximately per annum is allocated by other Council departments and other funders to Brent Play Service for the running of play schemes. The main sources of funding are the Council's Early Years Service and the Brent Children's Fund Partnership
- 4.4 It is anticipated that the cost of this contract will be funded from the core Brent Play Service budget, funding from the Council's Early Years Service, the Brent Children's Fund Partnership, with the exact amounts depending on future funding allocations, and additional resources from the Big Lottery Fund, expected to be a total of approximately £740,000 phased over the next 3 financial years.

The Big Lottery Fund bid includes £542,181 for revenue costs and £199,155 for capital costs over 3 years. £169,155 of the capital costs are scheduled to be spent in year 1 and a total of £30,000 in years 2 and 3.

Approximately £100,000 per annum from the Council's annual Play Service budget will need to be retained by the Council to fund the central management post, the support post for quality and workforce development, if it is decided to provide this function in-house, and the costs related to the premises, service support and the procurement process, including legal costs.

- 4.5 Projections based on current levels of funding for the service, as described in paragraph 4.4 above, would give an estimated total available fund of approximately £580,000 per annum, comprising approximately £150,000 from the core Play Service budget, £180,000 from the Big Lottery Fund and £250,000 from the Council's Early Years Service and the Brent Children's Fund Partnership. Funding amounts post 2008 could be less depending on the future of the Council's Early

Years Service funding stream and the Brent Children's Partnership Fund. Amounts with timelines for each funding stream will need to be detailed in the final specification for tender and agreed through the Local Area Agreement process as funding streams are confirmed.

- 4.6 In the event of the Big Lottery Fund bid for funding for 2007 - 2010 being unsuccessful, the scope of the services to be delivered under the new contract, as outlined at paragraph 3.18(i), would need to be reduced to activities linked to existing Brent funding sources totalling approximately £400,000 annually (comprising the core Play Service budget and funding from the Council's Early Years Service and the Brent Children's Fund Partnership, as described above at paragraph 4.4). The description of the nature of the service summarised at 3.18(i) above would therefore exclude the Brent Big Play Projects, including delivery of new play schemes. Additionally, the estimated value of the new contract, as shown at 3.18(ii), would reduce from £1,160,000 to £800,000 for the initial two-year period and from £1.96 million to £1.6 million for the initial two-year period including the option to extend up to a further two years.

5.0 Legal Implications

- 5.1 The estimated value of the proposed new play services contract over its lifetime exceeds the EU threshold for Services contracts however the nature of these services means that they fall within Part B of the Public Contracts Regulations 2006 ("the EU Regulations"). The procurement of Part B Services contracts is not subject to the full tendering requirements of the EU Regulations although is still subject to overriding EU principles of equality of treatment, fairness and transparency in undertaking the tender process including contract award.
- 5.2 In addition, as the estimated value of the proposed contract over its lifetime is in excess of £500,000 the procurement and award of the contract are subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts. As a result Executive approval is required to go out to tender and for the award of this contract.
- 5.3 The current agreement for the delivery of play services in Brent was never formally tendered but is an arrangement with BPA that developed over a long period of time. Given the value and nature of the play services contract it should have been tendered at the outset, and re-tendered on a regular basis. As the Council is now tendering the play services, the risk of any challenge to a short continuance of the current arrangement while tendering is undertaken low.

- 5.4 Once the tendering process is undertaken Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contract and recommending award.
- 5.5 The current agreement between Brent Play Service and BPA for the delivery of play services in Brent is not formally documented in a legal written contract but is loosely documented as a working partnership arrangement. The lack of formal, clear and robust contractual documentation is presently being addressed by the preparation of a clear service specification and conditions of contract that reflect the terms and conditions agreed by the parties over the course of time. In so far as the conditions of contract reflect the improvements referred to in paragraph 3.13 of the report they are considered to be a variation for the purposes of and in accordance with the Council's Standing Orders and Constitutional requirements.

6.0 Diversity Implications

- 6.1 The Children and Families Department monitors usage of play services in Brent. However, the tendering process will provide an opportunity to review current monitoring arrangements to strengthen the play service provider's performance where necessary. In particular, the specification will address explicitly play provision for children with disabilities and special needs.
- 6.2 A Brent Council Equality Impact Assessment will form part of the preparations for the tendering process.

7.0 Staffing Implications

- 7.1 Major aspects of delivery of the play services in Brent are currently provided under an agreement by BPA. It is expected that all the staff currently employed by BPA in the delivery of these services will not become Brent Council employees if the new contract is awarded to another external contractor. Therefore most of the staffing issues inherent in any potential change to the organisation delivering the play services, following the tendering of the new contract, will be in the domain and responsibility of BPA or BPA and a new contractor (depending on the outcome of the tendering process). Some of the staff currently employed by BPA are former Council staff who transferred to BPA as a result of a previous outsourcing .
- 7.2 If decisions are made to bring in-house into the Council some of the specialist service support functions currently carried out by a small number of BPA staff (almost certainly two or less Full Time Equivalent staff), then it is likely that TUPE would apply.

- 7.3 Brent Play Service currently has 4 staff members: a Head of Service, a Deputy Head of Service, a Quality Training Officer and a Finance and Administrative Officer. In the past there has also been a fifth post, a Development Officer. However, the existing staff are currently covering this role.
- 7.4 As stated at 4.4 above, approximately £100,000 per annum from the Council's annual core Play Service budget will need to be retained by the Council to fund the central management post and potentially the support post for quality and workforce development. It is anticipated that a small number of staff currently within Brent Play Service, at least two or possibly three, are likely to transfer to the successful contractor under TUPE.
- 7.5 As the letting of the new contract is likely to involve the transfer of Council staff to the successful contractor under TUPE the officers conducting the tender process will need to have regard to the Best Value guidance issued by the Government called the "Code of Practice on Workforce Matters in Local Authority Service Contracts" and decide which if any parts of that guidance are likely to achieve Best Value and therefore should be applied in the tendering process. Existing Council policy concerning the protection of accrued and future pension rights of Council employees transferring to a private employer, as agreed by the General Purposes Committee on 27th April 2004, will need to be followed in the tendering process.

8.0 Accommodation Implications

- 8.1 Brent Play Service currently operates from Middlesex House. Any new contractor will need to identify and operate a base for its management and support staff. Access to the Brent Council owned purpose-built multi-sensory play area for children with special needs in Middlesex House will need to be determined.

Background Papers

- Brent Council Strategic Review of Brent Play Service Final Report dated 21 December 2006
- Brent Play Strategy (2005 – 2008)
- Current Play Service agreement documentation and correspondence files

Contact Officers

Rik Boxer, Assistant Director, Achievement & Inclusion, Chesterfield House, 9 Park Lane, Wembley, Middlesex HA9 7RJ
Tel: 0208 937 3201
Email: Rik.Boxer@brent.gov.uk

Angela Chiswell, Head of Connexions & Out of School Learning, Chesterfield House, 9 Park Lane, Wembley, Middlesex HA9 7RJ
Tel: 0208 937 3667
Email: Angela.Chiswell@brent.gov.uk

Director of Children & Families
John Christie