

NOTICE OF EXECUTIVE DECISION

FUTURE OF THE EMPLOYMENT FOUNDATION SERVICE

Under the Council's Constitution if a Key Decision has not been included in the Forward Plan it may still be taken if:

- 1) the decision must be taken before the publication of the next Forward Plan and the start of the first month to which the Plan relates;
- 2) the Chief Executive has informed the Chair and spokes of the decision to be made
- 3) the information has been made public
- 4) 5 working days have elapsed since 2) and 3) above

(Constitution – Part 4B – Access to Information Procedure Rules, Paragraph 15)

The attached Record of Decision as drafted gives notice under 2) and 3) above of what decisions the Executive Councillor for Community Development & Health, Councillor Sheila Stuart, is minded to make.

Gary Clift
Head of Committee Services (for Chief Executive)
22 November 2006

CAMBRIDGE CITY COUNCIL
Record of Executive Decision

THE FUTURE OF THE EMPLOYMENT FOUNDATION SERVICE
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Decision of:	Executive Councillor (Community Development & Health) Sheila Stuart
Reference:	06/CS/GE01
Date of decision:	x November 2006 Recorded on: X November 2006
Decision Type:	Key
Matter for Decision:	To determine the future of the Employment Foundation Scheme.
Why the decision had to be made (and any alternative options):	See officer's report attached.
The Executive Councillor's decisions:	Agreed: That officers be authorised to complete the necessary agreements and legal documents for a transfer of the Employment Foundation Scheme to Cambridge Regional College on the basis of the principles set out in Appendix 1 but subject to the in-house retention of GreenFingers and the revised financial management arrangements set out in Appendix 2.
Reasons for the decision:	The reasons for the decisions taken are as set out in the report.
Scrutiny consideration:	The Chair and the spokesperson of the Community Services Scrutiny Committee were notified five clear days before the decision was taken.
Report:	Attached
Conflicts of interest:	None

Update on Future of the Employment Foundation Scheme

Prepared by: Director of Environment & Planning
Date: 21 November 2006

1. Background

- 1.1 On 9 October 2006, the Executive Councillor for Community Development & Health authorised officers to complete the necessary agreements and legal documents for a transfer of the Employment Foundation Scheme (EFS) Service (as outlined in the attached report – Appendix 1) to Cambridge Regional College (CRC).
- 1.2 The negotiations on the legal agreement have been informed by extensive consultation with staff, stakeholders, the unions and CRC.
- 1.3 Negotiations on the transfer have now been completed and it has become clear that CRC does not wish to take on responsibility for the GreenFingers service. An alternative arrangement has been agreed so that GreenFingers continues to operate within the City Council from the City Services Department but with close operational links to EFS to ensure that the training benefits are maximised.
- 1.4 The draft agreement also provides for revised financial provisions and these are summarised at the end of this paper in Appendix 2. The main differences between the negotiated position and the original proposal is that the City Council contributions will be made over two future financial years with the major payment in next financial year rather than over three future years. This change was sought by CRC to reflect the fact that their costs will be higher in the initial years. This change would have limited impact on the cash flow for the City Council and needs to be considered in the context of the wider benefits of the proposed agreement. Overall, the draft agreement secures savings of more than £360,000 over a five year period whilst ensuring that the EFS continues to operate and deliver an effective service.
- 1.5 It is proposed to proceed with the transfer with effect from 1 December 2006. It is considered important to achieve this deadline to ensure continuity of the Service and to achieve all the objectives of the transfer.

2. Recommendation

That officers be authorised to complete the necessary agreements and legal documents for a transfer of the Employment Foundation Scheme to Cambridge Regional College on the basis of the principles set out in Appendix 1 but subject to the in-house retention of GreenFingers and the revised financial management arrangements set out in Appendix 2.

Future of the Employment Foundation Scheme

Briefing Paper and Recommendations to Executive Councillor for Community Development & Health

Prepared by: Head of Economic Development & Tourism

Date: 8 September 2006

1. Executive Summary

1.1 Following the previous agreement of the Executive Councillor, consultation has been ongoing to determine the future of the Employment Foundation Scheme (EFS). Three broad options have been considered:

Option 1 - Retention

Option 2 - Partnership Provision / Outsourcing

Option 3 - Closure of the Service

1.2 During discussions with staff, stakeholders and members, Option 2 has emerged as the strongest option to secure continued provision and improvement of a valued and important service. At the same time, this option recognises the City Council's ongoing policy commitment to improved skills and employment opportunities amongst disadvantaged groups¹ with the resource limitations that exist within the City Council to fulfil this policy ambition.

1.3 In principle, agreement has been reached with Cambridge Regional College (CRC) for the total transfer of the EFS service, including staff, from the City Council to CRC. Detailed agreement and transfer terms are still to be finalised but the body of this report sets out the basis for agreement at this stage.

1.4 If Executive Councillor approval is given to the completion of an agreement with CRC, it is envisaged that such an agreement, and therefore transfer of the service can be concluded by 31 December 2006. If, however, agreement with CRC breaks down, steps will be taken to proceed with Option 3 in a timescale up to 31 March 2007.

2. Recommendations

2.1 The Executive Councillor is recommended to consider and approve:

2.1.1 That officers be authorised to complete the necessary agreements and legal documents for a transfer of the Employment Foundation Scheme service, as outlined in this report, to Cambridge Regional College

2.1.2 That the said transfer includes the GreenFingers² service, subject to a suitable Service Level Agreement to safeguard service standards and delivery

2.1.3 That should it become clear, as the detailed terms and documentation are being completed, that a transfer based on the terms outlined would be

¹ Cambridge City Council Economic Development Strategy 2004-2007

² GreenFingers leaflet included in background papers

unacceptable to the Council, that officers pursue and complete Option 3, involving the closure of EFS

3. Background

3.1 The options for the future of EFS, and consultation that has taken place around these options, are set out in the Background Papers and outlined above.

Option 1 - Retention

Option 2 - Partnership Provision / Outsourcing

Option 3 - Closure of the Service

3.2 Option 1, which is the retention of EFS within the City Council, would require additional long term commitment both within the service and across the Council. The continuing success of EFS will demand an increasingly responsive and flexible approach to win future contracts and strong operational management within the service will be essential. Regrettably, it has not been possible to appoint a manager within the service despite extensive efforts because prospective candidates have felt that EFS within the City Council does not allow sufficient career progression or organisational support when compared with delivery as part of an educational institution. It is therefore considered that Option 1 is not a viable medium to long term option given the uncertainty about future success.

3.3 Over the past 2 months, Option 2 has emerged as the more practical and favoured way forward and while all options have been investigated, discussions have been on going with CRC on that basis. A number of key sticking points existed relating to Option 2, most notably:

- Issues of staff transfer / TUPE³
- The agreement of the Learning & Skills Council (LSC)

3.4 Outline Agreement

3.5 While much detail remains to be resolved, both the above issues do not now appear to represent a barrier to progressing Option 2 and outline agreement has been reached with CRC on the following basis, subject to final negotiation and legal agreements:

3.6 All existing training contracts⁴ held by EFS will be novated to CRC leaving no residual obligation or liability with the Council

3.6.1 There would, however, be a strong strategic partnership with the College embodied in a signed legal agreement. The partnership would cover the clear need for continued strategic and practical commitment from the Council, in terms of ongoing financial contribution and agreement over premises. A further issue is a commitment to strengthen work placement and employment opportunities within the Council itself – something which all parties (LSC, CRC and CCC) acknowledge as vital and is mentioned further in 3.12.2 below.

3.7 Responsibility for the delivery of the GreenFingers scheme will transfer to CRC

³ TUPE - The Transfer of Undertakings (Protection of Employment) Regulations 1981 and 2006

⁴ A list of contracts is available as part of background papers

- 3.7.1 GreenFingers, as it has evolved, is not just a service for maintaining the gardens of disabled / disadvantaged individuals in Cambridge but also provides a vital platform for training and learner work experience that is now integrated into EFS's overall service delivery. As such it is not a straightforward service to place, be that within CRC or potentially within City Services. If it is transferred to CRC there are modest risks attached to a third party delivering what is seen as a free City Council service. These risks could be minimised by ensuring that service standards are agreed between the two organisations and GreenFingers would continue to stand as a service "supported by" rather than delivered by Cambridge City Council.
- 3.7.2 If GreenFingers transfers to City Services, there are concerns over expectations from customers that more provision will be available and how the crucial training element of GreenFingers can continue, at arms length, to be linked to an EFS service transferred to CRC.
- 3.7.3 On balance, subject to final agreement with CRC and taking account of the reasons set out in Financial Implications below, it is felt that GreenFingers could best go forward under CRC management. A very important issue would be clear protection through the Service Level Agreement should service standards slip or CRC decide it could no longer provide the service. The City Council currently commits a baseline budget of £56,000⁵ to GreenFingers The financial element of the agreement would transfer this budget to reflect CRC's commitment to providing GreenFingers in future.
- 3.8 A Service Level Agreement (SLA) would be completed between the City Council and CRC to cover the basis for:
- Ongoing financial and policy commitment from the City Council. This would be done under Section 2 of the Local Government Act 2000, commonly referred to as the "well-being power"
 - The detail of CRC's commitment to ongoing service provision including GreenFingers
 - The protection of options for the City Council, should problems occur or CRC decide to change its service plans in future. For example, including sufficient notice periods to allow service planning; clear rights to either stop and/or claw back funds transferred to CRC for service delivery under the terms of an SLA
- 3.9 All staff employed by the City Council at the point of agreement will transfer to CRC under the provisions of TUPE**
- 3.9.1 The significant issue in any such transfer is protection of employees' terms and conditions, and pension liabilities can represent a major barrier to agreement. It should be noted that CRC operate under the same Local Government Pension Scheme as the City Council, administered by the County Council and therefore any potential barrier is significantly reduced.
- 3.9.2 Detailed and individual consultation with staff would take place prior to any transfer, led by Human Resources and, where appropriate, held jointly with unions and CRC.
- 3.10 The EFS service will continue to occupy existing premises at Cherry Hinton Hall and a lease will be completed to take account of CRC's "ownership" of the EFS transfer.

⁵ Plus management and administrative support through existing EFS operation

- 3.10.1 It is clear from all parties (LSC, CRC, staff and others) that for a transfer and ongoing provision for disadvantaged groups to be successful, EFS would need to remain at Cherry Hinton Hall for the foreseeable future. The fact that it is not physically part of a formal education establishment and is relatively isolated are major factors in engaging with disadvantaged and disaffected individuals.
- 3.10.2 Legal services would draw up an appropriate lease agreement with CRC, in consultation with Property Services (and Active Communities).

3.11 Assets

- 3.11.1 The physical assets employed by EFS, including office furniture, ICT equipment, vehicles and other tools and equipment be transferred at an agreed value to CRC. Detailed discussions are ongoing with regard to asset management and support arrangements, for example with regard to vehicles, which are currently (and efficiently) maintained by City Services.

3.12 City Council Practical and Financial Commitment

- 3.12.1 While the City Council wishes to remain committed to the policy objectives that EFS delivers, its intention is to cap and reduce its financial and daily management commitment. Option 2 does represent a means of achieving this.
- 3.12.2 However, in discussing the basis for a transfer of EFS, it was clear that agreement could only be reached if a degree of financial and strategic commitment remained from the City Council. Both the LSC and CRC are seeking firmer commitment from the City Council to support actual delivery in practical ways. Most particularly, they cite the need for a large employer such as the City Council to be committed to work placement and employment opportunities that can be facilitated through programmes that EFS runs. A review across the Council of work experience procedures and work placement opportunities would strongly back up wording in the SLA cementing such firm intentions with senior member and officer support.
- 3.12.3 The financial basis for outline agreement at this stage is set out under Financial Implications below. In summary, negotiations have shown that a degree of ongoing, but reducing, financial support from the City Council will be necessary. At this stage, the budget position is expected to be neutral in the remainder of 2006/7, to achieve the normal corporate savings target in 2007/8 and thereafter accrue an additional saving of £50,000 per year. In other words, by year 5 (2011/12) the Council would be saving up to a maximum of £210,670 (£195,670 plus £15,000)
- 3.12.4 While the above does not deliver an immediate saving, it does place a cap on the Council's resource commitment in cash and management terms, while delivering a planned medium term saving that can be redeployed to meet comparable policy objectives.

4. Consultation

- 4.1 Formal staff, stakeholder and union consultation has been taking place since June on the options facing EFS.
- Retention of the service within the Council
 - Partnership Provision / Outsourcing of the service
 - Closure of the service

- 4.2 It would be fair to reflect the concern that some staff felt when feeding back on Option 1. Many highlighted under-utilised potential within the service as it currently stands, the problems amplified by a lack of an on site EFS Manager, a lack of engagement by other parts of the Council and the difficulties of change and new contracts through 2005/6. Through both specific examples and general tone, staff believed that EFS could be robust and viable if management support structures and resources could counteract the recognition that within the City Council EFS was “an unusual animal”. Staff did acknowledge the unique nature of EFS and the problems which it presents to the Council in resourcing and managing it. While additional resources might make a difference, there are still going to be ‘cultural’ and structural problems and continued pressure as funding bodies seek regional or sub-regional level contracts with larger providers rather than local contracts.
- 4.3 In looking at Option 2, staff identified that a partnering or outsourcing approach, particularly with CRC, could address many of the issues raised as barriers or problems for Option 1 to succeed. Although there were specific questions and concerns about the specific impact such a change might have on staff and on the wider service, there were a lot of positive views expressed about this Option.
- 4.4 Understandably, staff did not see Option 3 as a good way forward but in feedback did focus on the impact this would have on learners and disadvantaged groups within the community and expressed the view that too many other potentially viable options existed for Option 3 to be adopted.
- 4.5 In summary, the potential for the service to succeed is strongly highlighted in the staff feedback, along with feedback from the EFS Advisory Board, but most seemed to recognise that the support and resources the service needs to fulfil this potential were more likely to come through a version of Option 2.
- 4.6 Unions have been involved with the consultation process both through discussion and involvement in staff meetings and their positive engagement has been important and helpful.

5. Financial Implications

- 5.1 The current outline agreement with CRC makes two top level assumptions:
- that the Council makes an annually reducing contribution to CRC
 - that CRC undertake delivery of GreenFingers
- 5.2 An alternative may exist, which would require the support of City Services to take on GreenFingers. However, City Services have indicated they would need additional management and administration resources to cover this. No formal figure has been agreed for this but a minimum estimate is £25,000 and in the tables below Scenario 1 reflects this potential in-house arrangement. This does:
- reduce the level of overall saving that the Council can achieve long term
 - diminish the links between the training elements of EFS provided through CRC and the residents’ gardens work which would be provided by GreenFingers
 - raise questions about whether this is the most efficient service delivery model
- 5.3 Appendix 1 below sets out two financial scenarios with Scenario 2 being the one that relates to the recommendations to the Executive Councillor. This shows a saving by Year 5 of £195,670 plus £15,000. However, this does mean that by then (2011/12) the Council would not be making any contribution to GreenFingers, which the Executive Councillor may feel reduces the Council’s influence over the service (regardless of any SLA). Also, as at the date of this report, it is not certain that CRC will agree to such a complete withdrawal of financial support and it could therefore mean that the ultimate saving achievable might be capped at £154,040 (£139,040 plus £15,000).

- 5.4 Currently EFS pays 'rent' that benefits Active Communities budgets. Through a lease agreement with CRC, Legal and Property Services will protect this income, as well as the City Council's interests and rights relating to the remainder of Cherry Hinton Hall.
- 5.5 The VAT implications of the proposed transfer need to be confirmed by Finance. The working assumption to date, based on previous discussions is that if, after a transfer, the City Council no longer receives income relating to the provision of adult training (which would be the case), the impact of the transfer would at worst be neutral and could take pressure of the City Council's current VAT threshold.

6. Staffing Implications

- 6.1 If Option 2 proceeds to a successful conclusion, all staff employed by the City Council at the point of transfer will become employees of CRC. We are conducting negotiations on the basis that TUPE applies and staff terms and conditions will be dealt with accordingly.
- 6.2 If, however, Option 2 breaks down and Option 3 is applied (Closure of the service), then all staff are at risk of redundancy. They would be supported through the Council's Redundancy Policy that seeks redeployment wherever practical, but the risk remains that up to 15 FTE staff will be redundant at an estimated direct cost to the Council of £15,000 in redundancy payments.
- 6.3 Although not a material issue in the decision about the future of the EFS, it should be noted that the Head of Economic Development & Tourism left on 8 September 200 and an interim supply manager has been appointed. His role, working in the interim with the Director of Environment & Planning, will be to conclude the detail of whatever decision the Executive Councillor chooses to make over the future of EFS.

7. Equality & Diversity

- 7.1 Cambridge includes two of the 10 most deprived wards in the East of England. Low basic skills and academic attainment combined with social deprivation represent significant barriers for individuals.
- 7.2 Along with partners, EFS has long sought to engage with and address equality of opportunity and a diversity of socio-economic background both for the sake of the individuals and the wider benefit of the city.
- 7.3 The complete loss of EFS through closure would clearly undermine equality and diversity within the city.

8. Environmental

- 8.1 There are no specific environmental implications of these recommendations unless the chosen path results in the closure or downgrading of GreenFingers. The latter would clearly impact on the immediate environmental quality for hundreds of households unable to maintain their own gardens.

EFS Transfer to CRC

Initial Savings Proposal

	2007/08	2008/09	2009/10	2010/11	2011/12	Total Saving
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	
<u>Scenario 1 (assumes GreenFingers retained in-house)</u>						
Net Cost (after Central Costs/Recharges)	154,630	154,630	154,630	154,630	154,630	
Less GreenFingers management cost (estimate)	25,000	25,000	25,000	25,000	25,000	
Less transfer/set-up costs (estimate)	25,000	0	0	0	0	
Less savings (estimate)	<u>15,000</u>	<u>15,000</u>	<u>15,000</u>	<u>15,000</u>	<u>15,000</u>	75,000
	65,000	40,000	40,000	40,000	40,000	
	89,630	114,630	114,630	114,630	114,630	
Cash payment to CRC	(89,630)	(64,630)	(14,630)	0	0	
Additional (cost)/saving available for reinvestment by CD&H Committee	0	50,000	100,000	114,630	114,630	379,260
Total Saving						454,260

Revised Savings Proposal

Scenario 1 (assumes GreenFingers retained in-house)

Net Cost (after Central Costs/Recharges) increase due to change in price base	163,970	163,970	163,970	163,970	163,970	
Less GreenFingers management cost (tfr'd to City Services)	25,000	25,000	25,000	25,000	25,000	
Less transfer/set-up costs (now included in Year 1 payment to CRC)	0	0	0	0	0	
Less savings (estimate)	<u>15,000</u>	<u>15,000</u>	<u>15,000</u>	<u>15,000</u>	<u>15,000</u>	75,000
	40,000	40,000	40,000	40,000	40,000	
	123,970	123,970	123,970	123,970	123,970	
Cash payment to CRC	(193,890)	(30,000)	0	0	0	

	(69,920)	93,970	123,970	123,970	123,970	395,960
Less adjustment for Cottage rent (Active Communities)	(12,750)	(6,750)	(6,750)	(750)	(750)	(27,750)
Additional (cost)/saving available for reinvestment by CD&H Committee	(82,670)	87,220	117,220	123,220	123,220	368,210

Total Saving **443,210**

Net reduction
in total saving
over 5 year
period **11,050**