



# **Business Case for WorkwithYork Phase II**

## **1. Introduction and background**

This paper sets out a proposal to transfer all supply of casual, interims and agency staff via CYT Ltd, using the Work with York (WwY) brand.

The first service that has traded through the company since CYT Ltd was established, has been the WwY service provided to schools for supply teachers, and school support staff.

The service has traded effectively over the first year, and has generated a surplus of around £37k in some 10 months trading. In doing this the service has been sustained (it was likely to cease if it remained within the council) and has received very positive feedback from schools.

The services provided by WwY to the council have so far remained as part of the council activity and in 2012/13 generated income of £2,594k, with an associated cost of £2,535k, with an estimated outturn surplus £59k.

## **2. Proposed Change**

It is proposed that all WwY services to City of York Council be traded through CYT Ltd, including the transfer of all non-WwY casual work also.

It is proposed to keep the internal HR team who manage the WwY service, within the employment of the council for the reasons outlined below.

## **3. Business Case Proposal**

The services that were transferred to CYT in June 2012, i.e. supply teachers/support staff to school, have been provided very effectively over the last year. The service has been able to provide a reduced cost service to schools, whilst retaining the high level of quality. In doing so, the “company” model for the provision of supply staffing has been proved to be highly effective.

Operating through the company has allowed for the provision of a flexible pricing structure, and a related pay structure, that can be tailored to the needs of customers. Feedback from schools has been excellent, and they have welcomed the change to a more commercial approach which delivers the most effective solution for their needs.

Essentially this new proposal seeks to apply the successful principles that have been applied for schools to the remaining services that are provided by Work with York to internal areas of the council. As was the case with the teaching service, the key advantages of moving the service to CYT are:

- Ability to develop flexible pricing and pay structures;
- Ability to use the core service to expand to other customers;
- Ability to provide service at a lower cost, recognising that in a commercial environment the service needs to remain competitive otherwise it potentially risks not being sustainable.

### **3.1 Flexible Pricing Structures and Pay Structures**

The nature of a casual staff agency very much demands a need for a flexible approach to pricing and pay. The greater flexibility that has been created through transferring supply teachers to CYT has allowed the service to grow and seen more customers using the service. Customers who had previously gone to other companies have “come back” to CYT due to the more commercial nature of the service provided.

In a similar way it is intended that pricing and pay would be reviewed for the casual workforce that would move across to CYT. This will allow for a market-related pay mechanism to be developed, and opportunities to provide different pricing structures will be employed. This is particularly relevant in terms of seeking to grow new business.

### **3.2 Growing New Business**

The service to schools is generating a turnover of around £750k, and we expect this to increase as the customer base increases within and beyond the boundaries of York. Moving council work into the company could increase the turnover to over £3m. The current Business Plan with existing business only is forecasting a profit before tax of around £100k, with the extended business having a target of £59k (full year effect) to reflect the current income target required by the council. In addition there is the propensity to develop business further and wider in this and following years to increase the opportunity for greater profits.

The existing services and customer base would provide a platform upon which the company can seek to grow significantly, and start to reach into other areas, and grow its range of customers. Ultimately this would lead to creation of a successful company who would provide significant dividends back to the council.

We see the major increase in volume that would be achieved through the transfer of casual staff to the company as representing a significant step change in the scale of the company. It would move the company into being a significant operation, and one which would seek to grow its client base in a manageable and effective manner.

### **3.3 Ensuring Competitive Operating Environment**

The move of the teaching service to CYT recognised that the previous internal service had become uncompetitive. This was primarily due to the fact that the staff employed had access to the teachers' pension scheme. Whilst this was clearly laudable in terms of employment provision, it ultimately meant that the service was unable to compete with an active commercial market. As such the previous internal service was seeing its customer base reduce, and indeed in the last year of operation within the council had actually made a loss. As was set out at the time the service moved to CYT there were only really two options (1) to cease the service, (2) to seek to find an alternative method of delivery, through a commercial model.

Fundamentally, it has to be recognised that the nature of the agency/supply business is one that operates in a competitive/commercial environment. Those "competitors" do not have the costs of public sector pensions for example. Therefore to remain viable we have to consider opportunities to ensure the service remains competitive.

At present there are very few casual staff who have joined the Local Government Pension Scheme (LGPS). However, with auto enrolment from 1<sup>st</sup> July 2013 this is likely to increase. Unfortunately this would result in costs significantly increasing for the service with those costs ultimately being met from council services if the casual staff service remains in council operation. If 50% of current WwY casual staff did not opt out of the LGPS then this could add an additional financial pressure of £200k to the pay bill.

In considering this issue, essentially it is the same as for the supply teaching service. Whilst in an ideal world the provision of a public sector pension scheme to the casual/supply staff may be supported, it simply places the operation of the service within an uncompetitive and unsustainable financial model. Moving to the company model creates the opportunity to ensure long term viability and also to provide more work opportunities for the staff concerned.

In respect of the internal “administrative” Work with York team who are employed within HR , these staff will remain employed by the council on their current terms and conditions. All costs of the service will be recharged to the company.

### **3.4 Living Wage and Pensions**

CYT is committed to becoming a Living Wage Employer. It will implement this by 1<sup>st</sup> April 2014 and will be able to absorb the cost of this across its full charging structure to minimise the impact of this to the council services using CYT services.

It is also committed to developing a cost effective pension scheme, in advance of auto enrolment for the company in 2017.

An additional change which will assist with attracting and retaining good quality casual staff, will be the development of a payroll which will pay quicker and more regularly than the monthly salary process in place at the council.

## **4. Scope of proposals**

### **4.1 Current WwY casuals**

There are currently 553 WwY CYC casual staff on payroll (approximately 1000 casual positions as some staff work in various different roles).

All of these staff (and the managers of the services they are working in) will need to be contacted to sign up to CYT and any assignments through CYC ended on or before 31st August (and if appropriate started again on 1<sup>st</sup> September 2013).

### **4.2 Other CYC casuals**

There are approximately 1400 casual workers (excluding schools based casual staff) on record to work for CYC who are not part of WwY. Not all of these workers are all working at the same time and 650 were paid in March for hours worked in February 2013 at a cost of £157k. For illustrative purposes if half of these non WwY casuals auto enrolled for the LGPS then the cost would be around a further £200k.

Transfer of non WwY casuals would present a ‘cleaner’ position for CYC in that there would be no employees on CYC payroll with a casual only status

(although some staff will have casual assignments in addition to their permanent contract e.g. in social care). This would provide a consistent gateway for all of CYC's casual work requirements, which will ensure compliance with all current legislation relating to employment of agency workers.

### **4.3 Interims & Specialists Work**

This work is currently done free-of-charge in-house by the WwY Team as a recent procurement exercise failed to produce a supplier given the low levels of activity in CYC. Transfer of this service could be used by CYC to reinforce protocols and governance around this activity, and stricter cost controls be put in place.

If this is agreed in principle then more work will need to be done to bring back costed proposals to the CYT Shareholder Committee.

This proposal can be considered along with or in isolation to the key proposals to transfer casual work to CYT Ltd.

### **4.4 WwY HR Team**

TUPE would apply to any members of CYC staff who might transfer to CYT. They would transfer on the same terms and conditions as their existing contracts of employment. CYC would also have to ensure that the employees affected have access to a pension scheme which is "broadly comparable" to the existing scheme. In practice, arrangements are usually made for employees to remain in the LGPS.

It is proposed, therefore, to keep the internal HR team which manages the WwY service within the employ of the council, given the proposal above not to seek admitted body status of the LGPS.

## **5. Financial implications of the proposals**

### **5.1 Charging proposals**

In transferring the service to CYT it is proposed that current charges for existing casual work will remain at current levels for the first year. Therefore no service will see any impact from first day of operation.

In time, charges will be reviewed, reflecting the more flexible approach the company can adopt, and the company will seek to drive out efficiencies, and to ensure it is competitive whilst providing high quality services.

## 5.2 Impact on Council Budget

There is a budgeted surplus within council budgets for WwY of £59k. The benefit of transfer would be to secure further business to ensure sustainable income streams and remove the financial risk of this surplus not being achieved on a year on year basis.

The surplus of £59k would transfer to CYT Ltd and be subject to tax prior to any dividend being payable to CYC. In order to deliver a dividend and maintain the CYC budget surplus of £59k, WwY would need to reduce costs (following a review of pay structures) to increase the margin on existing business equal to the tax liability. This is only some £12k, against an overall turnover of over £3m, and it is felt that the opportunity to expand the business will more than cover this.

## 5.3 Revised Draft Company Budget

If the proposals are accepted the draft budget for CYT Ltd based on a full year's trading would look like:

	<b>BUDGET</b>
	<b>2013/14</b>
	<b>£'000</b>
Turnover	3,344
Costs (Including Overheads)	3,178
<b>Net Profit before Tax</b>	<b>166</b>
Tax @ 22%	37
<b>Net Profit after Tax</b>	<b>129</b>
<b>Minimum Dividend</b>	<b>59</b>
<b>Profit after tax and Dividend</b>	<b>70</b>

## **6. Legal/procurement implications of the proposals**

The award of a contract to CYT Ltd would be a public services contract and therefore subject to the public procurement rules.

CYC would seek to apply the “Teckal” exemption to enable a contract to be awarded without competition. To be able to rely on the exemption the following conditions must be satisfied:

1. CYT Ltd must be controlled by CYC;
2. There must be no private sector ownership; and
3. CYT Ltd’s principal part of its business must be for CYC.

A new EU Directive will be implemented in June 2014 which will require a Teckal exempt company to conduct at least 90% of its business for its controlling owner, i.e. 90% of its turnover must come from sales to its owner. Although the Directive is not yet in force, the 90% figure is normally used as a current guideline.

If work for other organisations generates an income of 10% or more of its turnover, the Teckal exemption will be lost and the Council will need to then procure the service. The provision of agency staff would be treated as “personnel and supply services”. These are “Part B” services and would not require a full EU Procurement process but would need appropriate advertising and compliance with general EU principles of transparency, fairness and equality.

## **7 HR Implications of the proposals**

These are mostly contained in the report, but a key advantage in support of the proposals is that CYT’s HR policies and procedures for managing staff have already been developed and are in use for schools based casual staff.

## **8 Conclusion**

This business case supports the transfer of casual agency services from CYC to CYT Ltd to secure the following benefits:

- keep agency staff costs to a cost-effective level for the council whilst managing emerging financial risks around pension changes;
- lower the costs of implementing the Living Wage for the council;
- expand the possible customer base for the services;



- grow potential profits in a successful business that can be returned back to the council; and
- place the service on a sustainable footing to provide an ongoing source of employment in the city.