



Tower Hamlets

London Borough of Tower Hamlets

Compelling Evidence Against a Strategic Partnership



**European Services
Strategy Unit**

(Continuing the work of the Centre for Public Services)



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(Continuing the work of the Centre for Public Services)

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The **European Services Strategy Unit** is committed to social justice, through the provision of good quality public services by democratically accountable public bodies, implementing best practice management, employment, equal opportunity and sustainable development policies. The Unit continues the work of the Centre for Public Services, which began in 1973.

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Executive summary

Small savings

Financial savings from outsourcing and strategic partnerships are regularly exaggerated. Government evidence shows they average between 6%-8% and are significantly smaller when all the costs are taken into account. Local authorities significantly under-estimate the cost of contract management and monitoring, transaction costs, and the cost of variations over the contract period. A strategic partnership is unlikely to make a significant contribution to budget savings and could actually cost the Council more.

Poor performance record

20% of local authority strategic partnership contracts have been terminated, significantly reduced in size with some services and staff returning in-house, or experienced major financial and operational problems.

No step change in quality of services

Few local authorities with strategic partnerships have reported a step change in the quality of services over and above that which existed before outsourcing or that could have been obtained by in-house improvement. Many authorities have seen services suffer as result of poor implementation, delays and a lack of understanding of the Council's systems and services.

Value for money

Tower Hamlets Council is seeking budget cuts, but it is legally required to obtain value for money in procurement decisions. Elected Members have a fiduciary duty to ensure that any procurement decision taken is in the best interest of the Council and its citizens. This means that the decision must be viable and sustainable not just within the Resource Directorate budget, but for the Council and community as a whole. We have seen little evidence that these important wider public policy issues will be taken into account.

Loss of jobs and cuts in terms and conditions

Private contractors in white-collar services usually consider TUPE lasts for the first year of a contract. After that, they will seek to hire replacement staff on lower terms and conditions and any staff promoted will have to switch to the contractors terms and conditions. This requires switching from the local authority pension scheme to inferior defined contribution schemes run by private contractors.

Few new jobs and little economic development

Strategic partnerships and private contractors have failed to deliver new regional business centres and new jobs. No new centres have been created, few additional public sector contracts have been won, and any additional jobs have not even replaced the jobs lost within the strategic partnership. A job creation target was met in only one local authority and that was achieved by the private contractor transferring work from another location.

Set back for equalities and diversity

Outsourcing will put a brake on the Council's approach to equalities and diversity and workforce development. Private contractors do not match the Council's commitment to social justice and reducing inequalities.

Erosion of democratic accountability and transparency

A significant democratic deficit is evident in the decision-making process for the procurement of a strategic partnership for ICT and the Resource Directorate. There is no evidence of a formal democratic discussion and debate over recommendations of the Agilisys consultancy report on ICT, the decision to commence procurement to outsource ICT and the rest of the Resource Directorate, and no overview and scrutiny. These issues are fully discussed in Part 2.

Making a distinction between capital investment in hardware/software and outsourcing service delivery

The Council has failed to distinguish between the need to upgrade the Council's ICT hardware and software and the needs of service delivery. The companies best equipped to provide hardware and software are often not best provider of outsourced service delivery and the transformation of in-house services. The Council should have adopted a 'best-in-class' approach.

Alternative option ignored

To our knowledge an Options Appraisal and a Business Case have not been prepared for the strategic partnership. This is a disregard for good management and procurement practice and suggests the Council has not examined alternative options or rigorously assessed the risks.

Public service principles eroded by business values

Private contractors rarely recognise the specific nature of public goods and services, which means that public service principles are likely to be eroded by commercial criteria and business values. This is particularly prevalent in the application of information and communication technologies that lead to a drive to impose behavioural change and direct service users/citizens into particular channels that might produce the biggest savings, but with negative political and socio-cultural consequences.

High-risk strategy

The Council has embarked on a high-risk strategy, made even more risky by being ill prepared for procurement. The absence of an Options Appraisal and a Business Case means that Elected Members are unaware of the type and scale of risks the Council will be exposed to.

Recommendations

The Council should:

1. limit the contract award to ICT equipment, software and technical support connected with implementation.
2. decide not to award a managed services contract for ICT, or for any other Resource Directorate service.
3. develop and implement an in-house service improvement strategy consisting of the components set out in Part 6 and the Appendix of this report.
4. re-appraise the means by which the Council will improve services and apply ICT, in conjunction with staff and trade unions.
5. negotiate a series of Protocols with UNISON and other trade unions to establish staff and trade union involvement in the service improvement process.
6. request the Mayor's Advisory Board and Overview and Scrutiny Committee carry out an urgent review of the procurement process. The new Mayoral structure of the Council inherited a procurement regime, which in the light of the findings of this report, requires review and to make recommendations based on the lessons learnt.

Part 1

Why a strategic partnership?

The London Borough of Tower Hamlets issued a Contract Notice in May 2011 for a seven-year (potential 3 year extension) strategic partnership contract valued between £200m - £1bn.

“At this stage, our intention is that the initial scope of the Partnership will focus on:

- *the ICT service;*
- *replacement or refresh of the Finance and HR systems; and*
- *providing business and management support to assist the Council transform, where needed, to deliver its vision.*

Due to the nature of the Partnership, it is accepted and reflected in our OJEU notice that additional services may be brought within the scope of the Partnership, on a proven business case basis. These may include:

- *HR;*
- *Finance;*
- *Procurement and Payments;*
- *Customer Access;*
- *Revenues; and*
- *Benefits.”* (Memorandum of Information, May 2011)

The contract will establish a framework agreement. This will enable the authority to outsource all the other Resource Directorate services over the period of the framework agreement, a maximum four-years, based on one or more business cases.

So the assurances given to staff that only ICT will be initially outsourced are technically correct. *“All bidders have been advised that they can expect no outsourcing of service beyond ICT. I have no mandate to do so and am therefore not pursuing this”* (Director of Resources, email to UNISON Branch Secretary, 21 October 2011).

But the framework agreement contract will enable the outsourcing of other Resource Directorate Services without any further tendering, based only on a business case.

Since there is no evidence that a comprehensive business case was prepared for the contract, there is little confidence that a business case for outsourcing other services will be substantive. All the remaining Resource Directorate services could legally be outsourced within months of the contract being signed.

The inclusion of other Resource Directorate services has never been justified. *“As we previously advised the decision to include other items in scope followed from the soft market testing exercise last year”* (Director of Resources, email to UNISON Branch Secretary, 21 October 2011). This statement suggests two possible reasons:

- The private sector persuaded the Council to include a wider range of services because they wanted a bigger contract; or
- The Council widened the scope of the contract to attract more competition and obtain bigger savings.

These fears are substantiated by statements by the Director of Resources *“....I would never recommend to Members or anyone else outsourcing a service that we could run better or cheaper ourselves”* (email to UNISON Branch Secretary, 21 October 2011).

“The primary aim of the partnership is to reduce the cost and improve the operation of the Council’s ICT service. We will also look for the partner to help us improve the cost efficiency of our back office systems; in the first instance our Finance and HR systems.

For all services, apart from the Council’s ICT service, the Mayor remains committed to delivering back office and customer service operations (such as HR, Finance, Revenues and Benefits) on an in-house basis. This mandate has been clearly communicated to potential partners. Accordingly the partners have been asked, through the procurement process, to outline how they could deliver improvements to our services on an in-house basis.

Any changes to these services would be undertaken by the Council, with the support of the partner. The Council will ensure that our ‘handling organisational change’ procedure will be fully applied when services are modified. We will also ensure change is delivered in a manner that is in keeping with our commitment to building a workforce that reflects our community” (Bulletin to staff October 2011)

If this is the case, then why were the other Resource Directorate services included within the scope of the contract and why does the contract include a framework agreement?

The Council is seeking two distinct skills – ICT and service transformation – rarely effectively provided by the same company.

The procurement process

The Council issued a Memorandum of Information indicating the services had a 2010/11 budget of £37.7m and employed 538 Full Time Equivalent staff – see Table 1 and Part 3 for further details.

Table 1: **Services and staff in scope**

| Service | Budget 2010/11 (£m) | No. of Staff (Full Time Equivalent) |
|----------------------------------|----------------------------|--|
| ICT Services | *13.6 | **85.0 |
| Finance Service | 5.6 | 104.0 |
| Human Resources | 5.5 | 120.6 |
| Procurement and Payments | 1.3 | 25.5 |
| Customer Access – Contact Centre | 1.7 | 58.0 |
| - One Stop Shops | 1.4 | 44.0 |
| Revenue Service | 3.4 | 85.5 |
| Benefits Service | 5.2 | 136.0 |
| Total | 37.7 | 538.0 |

Source: Memorandum of Information, Strategic Partnership, Tower Hamlets, 2011.

* Includes £4m Directorate expenditure. ** Central staff only.

Five companies were shortlisted:

- Agilisys
- Capita
- HCL
- Logica
- Northgate

Northgate subsequently withdrew.

The four remaining contractors were invited to submit outline proposals in October 2011. Logica did not submit a proposal. Following evaluation of these proposals, the Council invited final bids from:

- Agilisys and HCL

The current timetable requires final bids being submitted in early January 2012, the selection of a preferred bidder in early February followed by the start of the contract in April 2012 – see Table 2.

Table 2: **Final stages of procurement process timetable**

| Procurement stage | Date |
|--|------------------|
| Issue Invitation to Submit Final Tenders | 02 December 2011 |
| Final Tenders received | 09 January 2012 |
| Preferred Bidder Recommendation | 03 February 2011 |
| Member Decision | Feb - Mar 2012 |
| Service Transition work begin | Feb - Mar 2012 |
| Phase 1 Service Transfer | 01 April 2012 |

Source: Memorandum of Information, Strategic Partnership, Tower Hamlets, 2011.

Information Management Strategy

The Council commissioned a report on information management strategy from Agilisys, which was delivered in March 2010. It made a number of key findings and recommendations.

1. There is an imperative to implement better Business Intelligence capability corporately.
2. Integrations between Systems need to be made more Robust and Manageable. The Council should implement an Integration Hub and Service Oriented Architecture (SOA).
3. There is a huge Spreadsheet Industry Across the Council generating management and performance information.
4. Back Office Systems need to be made Channel Independent so that customers can undertake services themselves on the website.
5. The Council needs to implement a Corporate Mobile Working Infrastructure.
6. The Council needs to implement a Corporate Electronic Document and Records Management System (eDRMS).
7. Decommission systems where there is a significant overlap in functionality and manage the overall Application Portfolio.
8. Undertake a Comprehensive Review of Finance Systems and Chart of Accounts.
9. Incorporate the Target Application Architecture into the Governance Arrangements.

A summary of the ICT strategy was discussed by the Corporate management Team on 23 March 2010. The subsequent decision making process is discussed in Part 2.

Part 2

Loss of democratic control

Erosion of democratic accountability and transparency

The Mayor and Elected Members have not been fully informed about the policies being pursued by officers in the proposed outsourcing of ICT and the Resources Directorate. We have identified a substantial number of gaps and significant lack of democratic control and transparency:

- **No options appraisal:** We can find no evidence that an Options Appraisal was carried out before the decision was taken to commence procurement. The consultants report did not examine impacts, costs, options and only made broad recommendations. The Information Management Strategy was prepared in 2010 by Agilisys, one of the two contractors selected to submit detailed proposals in October 2011. A report to Overview and Scrutiny in August 2011 (Cabinet Report: Budget 2012/13 – 2014/15 Resource Allocation and Budget Review) stated: *“To achieve savings, the Authority was exploring options for economies of scale, risk sharing and transformational change such as smarter working, use of new technologies, changes to working patterns, generic working, strategic partnership, and the personalisation programme.”* But the procurement process for the strategic partnership had commenced three months earlier!
- **No Business Case:** A Business Case is usually prepared following an Options Appraisal and sets out the financial, economic and operational rationale of the selected option. The lack of an approved options appraisal and business case means that risks have not been fully identified and assessed. The council was ill prepared because it had not carried out an options appraisal or a business case. UNISON repeatedly requested a copy of the options appraisal and business case, but neither has been provided.
- **No report/discussion of ICT strategy to Cabinet:** No report on the Information Management Strategy, options appraisal, business case or proposals to outsource ICT or the entire Resources Directorate was submitted to Cabinet between March 2010 and May 2011. There was no public discussion of the important public policy issues, or the Council’s employer responsibilities.
- **No public discussion of the Agilisys report recommendations:** There is no record of the consultant’s report and recommendations having been publicly discussed by the Council.
- **No overview and scrutiny of proposals or procurement:** None of the issues raised by the ICT strategy, outsourcing and the procurement have been reviewed by Oversight and Scrutiny Committee.
- **No public discussion of proposal or decision to outsource ICT and the Resources Directorate of 615 staff:** There is no public record of the decision to commence procurement to outsource the ICT service or to extend outsourcing to the entire Resources Directorate.

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- **No Gateway Reviews:** A peer review at key stages of the procurement process is regarded as good practice in local government and a requirement in central government procurement.
 - **No reference to outsourcing in the Tower Hamlets Employment Strategy:** Yet two days before the Contract Notice was issued by the Council to commence procurement to outsource 615 jobs in the Resource Directorate, Cabinet approved the Employment Strategy. The strategic objectives include *“Ensure that the Public Sector maximises local employment within own organisations and supply chains”* (Cabinet 11 May 2011).
 - **Excluded from Contracts Forward Plan:** *“The Council has adopted financial procedures for the proper administration of its financial affairs pursuant to section 151 of the Local Government Act 1972. These generally require Cabinet approval for expenditure over £250,000. In November 2009, Cabinet approved the procurement procedures, which are designed to help the Council discharge its duty as a best value authority under the Local Government Act 1999 and comply with the requirements of the Public Contract Regulations 2006”* (Contracts Forward Plan, June 2011). So why has the ICT and Resource Directorate procurement not been included in Contracts Forward Plans in 2011?

This indicates a systemic lack of transparency, a failure to consider policy options, a lack of planning and preparation for procurement, and a failure to engage in dialogue with the trade unions. Answers are needed to five important questions:

1. **Why was a decision taken to outsource ICT when the original need was for new systems, hardware/software and technical support for their implementation?**
2. **Why were other Resource Directorate services included in the scope of the contract?**
3. **Why is a framework agreement required if the task of the contractor is to provide transformation advice and support to other Resource Directorate services? (An incremental partnership normally describes a phased staff of services and staff to a contractor)**
4. **What guarantees will given that the framework agreement will not be used to outsource services from other directorates in the Council?**
5. **Why has the process been so secretive since Agilisys delivered a consultants report on ICT in March 2010?**

Loss of political control of the procurement process

There is every likelihood that the Mayor and Elected Members will be presented with a ‘fait accompli’ by officers at the end of the procurement process.

The role of consultants and advisers has largely gone unchecked. We could find no reference to their brief, cost or decisions to engage particular consultancies or advisers. There was no consultation with trade unions.

Council officers may believe they are best placed to secure the ‘best deal’ for the Council. But Public Private Partnerships and strategic partnerships are complex, long-term commitments with the private sector to deliver complex public services. There is significant evidence that contracts with so-called ‘blue chip’ global companies are equally prone to problems and failure (see Part 2).

Limited accountability during a ‘partnership’

There appears to have been no discussion with the Mayor and Elected Members about the democratic accountability of a strategic partnership in Tower Hamlets. How PPP strategic partnerships are governed, held accountable, transparent and subjected to oversight and scrutiny should have been discussed prior to the commencement of procurement. Discussion at the end of this process is totally inadequate and likely to result in compromises that are not the best interests of Tower Hamlets Council.

Experience in other local authorities has revealed a series of problems with the accountability of strategic partnerships.

Firstly, only a handful of elected members are involved in the governance of partnerships, resulting in the majority having a limited understanding of policies and issues.

Secondly, the ‘commercial confidentiality’ of the procurement process continues into the operational stage, which further and unnecessarily restricts access to information.

Thirdly, the lack of involvement and access to information restricts the ability and effectiveness of scrutiny.

Fourthly, elected members should be concerned that a director and senior management of a private company would be closely involved in the governance of the strategic partnership. This would give them significant access to knowledge and intelligence about how the Council functions. It reinforces the need for clearly defined governance and accountability of the strategic partnership.

The Council will also need to ensure that:

- No clauses are inserted requiring compensation if the contract is terminated early.
- A comprehensive change control mechanism so that each stage requires a full business case, which must be approved by full Cabinet and includes meaningful consultation with trade unions.
- The contract is subjected to rigorous review on a regular basis.
- That adequate resources are allocated to contract management and monitoring.
- The performance indicators and targets are meaningful, effective and measurable and include inputs, processes, outputs and outcomes.

Public service principles and values replaced by commercial criteria

The lack of democratic control and the absence of involvement of staff and trade unions has meant that there is no check on the inevitable drift that occurs in the procurement of a strategic partnership. A handful of officers are engaged with management consultants, private contractors and legal firms, the vast majority of whom are not known for their support, let alone protection, of public service principles and values. They are eroded and replaced by commercial and business values.

Part 3

Limitations of PPP strategic partnerships

Small savings

Savings achieved by strategic partnerships are significantly smaller than claimed. An Audit Commission study of 14 strategic partnerships revealed an average saving of 8.3% (Audit Commission, 2008). This aligns with previous government outsourcing research, which found average savings of between 6% and 8% (Department of the Environment 1993 and 1997).

Only £3.3m of the planned £200m savings had been achieved three years into Somerset County Council's flagship ten-year strategic partnership with IBM (Audit Commission, 2010). The Council reviewed the contract in 2010 (Somerset County Council, 2010) and is currently renegotiating the contract – see below. The Council recently overpaid £4m because of deficiencies in the new SAP programme.

Lack of innovation

The level of innovation promised by strategic partnerships is frequently exaggerated. For example, Somerset Council's Customer Access Strategy is virtually the same as the one developed in 2005/06 in Project ISiS and used to drive the SW1 contract with IBM. SCC have paid £7m to IBM/SW1 for a new CRM system and web sites. The new Somerset County Council web site is currently SOCITM-rated as 1*/Poor. Will SCC baseline the current CRM system and web site from SW1, to ensure that taxpayers do not pay again for functionality in the contract with IBM/SW1 that has already been expensively paid for?

The level of innovation built into Newcastle City Council's in-house bid in 2002 was virtually the same as that proposed by BT.

No step change in quality of services

Few local authorities with strategic partnerships have reported a step change in the quality of services over and above that which existed before outsourcing or that could have been obtained by in-house improvement. Many authorities have seen services suffer as result of poor implementation, delays and a lack of understanding of the Councils systems and services.

Few new jobs and little economic development

The creation of new jobs in all but one strategic partnership have fallen considerably short of the target. The target was met in only one authority, but this was achieved by the contractor transferring work from another location, so there was no net gain in employment.

For over a decade private contractors have made commitments to create regional business centres and to win new work from other local authorities and the public sector. This has been an abject failure, with little new work won. For example, the Somerset joint venture has failed to win new work from authorities in the South West.

The Middlesbrough strategic partnership commenced in 2001 and was committed to create 500 new jobs but only a just over 100 staff are currently working on non-council business, 20% of the target. Originally 1,045 staff transferred to the contractor but this had declined to about 600 staff in 2010. Furthermore, accountancy, property services, enterprise centres, facilities management, leisure business development and procurement returned in-house in June 2011 with 130 staff.

Performance of PPP strategic partnerships

Of forty-four PPP strategic partnership contracts let by local authorities between 2000-2010, three have been terminated; two have been significantly reduced with services and staff returned in-house and a third is currently being re-negotiated with a large transfer of services and staff planned to return in-house; three other contracts have suffered significant financial and/or operational problems (ESSU, 2011).

20% of PPP strategic partnership contracts have either been terminated, reduced in scope, or suffered significant operational and/or financial problems.

This is a higher rate than for PFI projects and imposes many more risks

The European Service Strategy Unit PPP Database contains details of 44 strategic partnerships, of which 40 are for ICT and corporate services. (Update to 2011)

- Five contracts have been terminated (Bedfordshire County Council, West Berkshire Council, Essex County Council) or substantially reduced in scope because of operational and performance problems (Redcar & Cleveland Council and Swansea City Council). A sixth contract (Somerset County Council/IBM is being renegotiated with at least 25% of staff/services expected to be returned to in-house provision.
- Three contracts have experienced major problems (Liverpool, Swindon and Oldham).
- Two contracts have concluded with most services and staff transferred back to the local authority (Middlesbrough and Cumbria).

In addition, another ten local authorities reached various stages of procurement for a strategic partnership but decided to retain in-house provision and undertake innovation and change management. Newcastle City Council is the only council to have submitted an in-house bid in a strategic partnership procurement. This was successful on value for money, innovation and employment grounds against a BT bid. The city council has since achieved significant savings and improved service performance.

Somerset County Council's contract renegotiations with Southwest One are intended to deliver an ongoing, sustainable and material saving on the SCC Southwest One budgets; a simplification of the contract (to focus more on transactional delivery); an improved Southwest One governance structure; and a return to direct SCC control of some Southwest One functions and staff.

The County Council is proposing to transfer the following services back to its own management responsibility:

- HR and Finance 'advisory', Shared Accounting and Business Development functions within the Finance Service.
- The HR Development service and the Learning and Development function.
- The Dillington Advertising and Somerset Staffing traded functions.
- The Business Analyst function within ICT, as well as the ICT support staff currently engaged in supporting SCC's Somerset Skills and Learning service.
- The SCC element of the Design and Print service.

"The above list outlines specific services where negotiations are sufficiently mature. All other services are subject to further negotiations, and we are not ruling anything out at this stage" (Somerset County Council, 2011).

Southwest One accumulated losses of £19m in the first two years of operation. It suffered pre-tax loss of £16.5m in 2009/10 following a £2.5m loss in its first year. Planned savings of £200m over ten years have plummeted to £144m "pipeline" savings according to the latest accounts. The SSP is a joint venture between IBM, Somerset County Council, Taunton Deane

Borough Council and Avon & Somerset Constabulary. It has also to date failed to attract any additional contracts or create the promised new jobs.

“Progress on developing the potential for more effective joint working between Somerset councils has been mixed and there is still a lack of clarity as to how the partnership will secure benefits. Current leadership arrangements need to be enhanced and speed of delivery improved if the potential benefits are to be realised” concluded the Audit Commission’s Annual Governance Report (Audit Commission, 2010).

Liverpool City Council: A detailed value for money review of Liverpool Direct Limited (LDL), the joint venture strategic partnership between the City Council and BT that commenced in 2001, revealed that the Council had been overcharged by £19m over a nine-year period. The review identified excessive mark-up of the cost of equipment, support charges, software, hardware and training. Some desktop and laptop prices were marked up between 93% - 143% compared to the cost of alternative suppliers. It concluded that in-house provision would save £82m up to 2016/17 with annual savings of £23m for 2017/18 and beyond. The review was unable to verify the planned £100m investment, financed by the City Council, because of a systemic lack of transparency (Liverpool City Council, 2010).

Negotiations with BT led to a revised financial deal for the remainder of the contract consisting of a £9m price reduction phased between 2011-2017; investment of £17.5m (at no cost to the city council) in hardware, software or project works; £12m will be allocated by BT in the 2011-2017 period to a new fund to finance social housing, social care or community development; £6m over the same period to a apprenticeship fund to finance 56 new apprenticeships each year; sponsorship of £1m for example, the BT Convention Centre; and BT will ‘write-off’ potential claims of £56m that might be liable if the Council terminated the contract. The city council will also increase its shareholding in LDL from 20% to 40% (Liverpool City Council, 2011).

Bournemouth Council: There is currently a major dispute over the strategic partnership with Mouchel plc which began in December 2010. The Council’s senior accountant is suspended after he criticised a Cabinet report because it did *“...not provide an adequate assessment of risks or deliver an independent or robust evaluation of the two options considered.”* Mouchel has been the subject of a takeover for many months and the company chair and chief executive recently departed.

Swindon Council: The Council outsourced ICT and corporate services to Capita Group in February 2007. An Internal Audit in 2009 concluded *“...there have been prolonged performance issues with some services that have not always been resolved on a timely basis. In the case of the Benefits Service, continued performance failures against contractual targets have not been clearly escalated to the Partnership Executive for resolution, where service performance has not increased to contracted levels.”* (Swindon BC. 2009)

Cumbria County Council ends Capita contract: A strategic service delivery partnership contract for property, finance, highways, human resources and pension administration with Capita has not been renewed. Over 600 staff transferred to Capita in February 2001. The Council agreed to a mixture of in-house provision, shared services and joint provision with other authorities.

The ICT outsourcing record

A wider analysis of 105 outsourced public sector ICT contracts in central government, NHS, local authorities, public bodies and agencies that revealed significant cost overruns, delays and terminations. The evidence was drawn from government audits and House of Commons Select Committee investigations (European Services Strategy Unit, 2007). It includes a wide

range of local government services such as revenue and benefits, financial and other corporate services – precisely the services that Tower Hamlets Council plans to outsource.

- Cost overruns totaled £9.0 billion or 30.5%
- 57% of contracts experienced cost overruns.
- 33% of contracts suffered major delays.
- 30% of contracts were terminated.

(ESSU, 2007)

ICT contract failures have continued in a wide range of government departments, local authorities and public bodies. The key contract terminations or major problems include:

- NHS National Programme for IT (BT and CSC)
- Department of Work and Pensions Central Payments (Siemens)
- National Fire Control Centre (EADS)
- Wolverhampton Council (Axon)
- Department for Transport shared services project (IBM)
- Transport for London (TranSys)

There are many others.

“On a like-for-like basis, the outsourced operations are always more expensive”

The Society of Information Technology Management (SOCITM), the membership association for public sector ICT professionals, *“...has tracked costs and user satisfaction in both in-house and out-sourced operations for over a decade. On a like-for-like basis, the outsourced operations are always more expensive”* (SOCTIM, 2011).

SOCITM also recommend that core competences, strategic expertise and capability to challenge should not be outsourced.

The National Audit Office recommended the Department for Communities and Local Government (DCLG) should draw on the lessons of ICT procurement. At least two of these recommendations are applicable to Tower Hamlets:

- *develop appropriate IT and project management capacity in-house and reduce over-reliance on consultancy;*
- *ensure that the business case and approval process apply an appropriate level of optimism bias adjustment and challenge;* (National Audit Office, 2011)

Part 4

Local economy and employment strategy

Profile of the ICT/corporate services workforce

The Resources Directorate has 615 full or part-time staff, of which 79 are in ICT. The data in Table 5 is based on a different service basis than that in Table 1, which is full time equivalent basis.

Table 3: **Resource Directorate workforce** (Number of staff)

| Service Area | Gender | | Total | Full/Part time | |
|---|--------------|--------------|-------------|----------------|--------------|
| | Female | Male | | Full-time | Part-time |
| ICT | 19 | 60 | 79 | 77 | 2 |
| Corporate Finance | 14 | 17 | 31 | 31 | 0 |
| Corporate Programmes | 2 | 3 | 5 | 4 | 1 |
| Customer Access | 192 | 103 | 295 | 223 | 72 |
| Human Resources & Workforce Development | 94 | 47 | 141 | 124 | 17 |
| Procurement | 18 | 5 | 23 | 19 | 4 |
| Risk Management | 18 | 13 | 31 | 27 | 4 |
| Support | 9 | 0 | 9 | 6 | 3 |
| Not available | 0 | 1 | 1 | 1 | 0 |
| Total | 366 | 249 | 615 | 512 | 103 |
| Percentage | 59.5% | 40.5% | 100% | 83.3% | 16.7% |

Source: London Borough of Tower Hamlets, 2011.

There are significant differences in the profile of between the ICT and the rest of Resources Directorate staff. The key differences are:

- ICT staff are predominately full time (97.5%) compared to 81% of other Resource Directorate staff.
- 24.0% of ICT staff are female compared to 65% of other Resource Directorate staff.
- 40.5% of ICT staff are white (White English, Irish, Welsh, Scottish – see Table 4) compared to 50.9% of staff in the rest of the Resources Directorate.
- There are also differences in the ethnicity of the ICT and the rest of the Resource Directorate workforce. Asian Bangladeshi, Asian Indian and Black Caribbean are 12.6%, 12.6% and 16.4% respectively of the ICT workforce in contrast to 24.4%, 3.9% and 8.9% of other Resource Directorate staff. There are 9.9% staff of Black African and Black Other ethnicity in the rest of Resource Directorate compared to 3.5% in ICT.

Table 4: **Ethnicity of Resources Directorate workforce**

| Ethnicity | ICT | Corporate Finance | Corporate Progs | Customer Access | Human Res. | Procur-ment | Risk Manag. | Support | n/a | Total |
|-------------------------|-----------|-------------------|-----------------|-----------------|------------|-------------|-------------|----------|----------|------------|
| Asian-Other | 2 | 1 | 0 | 7 | 2 | 0 | 1 | 0 | 0 | 13 |
| Asian Bangladeshi | 10 | 7 | 3 | 64 | 45 | 4 | 5 | 3 | 0 | 141 |
| Asian-Chinese | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 4 |
| Asian-Indian | 10 | 4 | 0 | 9 | 5 | 1 | 2 | 0 | 0 | 31 |
| Asian-Pakistani | 3 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 6 |
| Black Caribbean | 13 | 2 | 0 | 28 | 11 | 3 | 4 | 0 | 0 | 61 |
| Black Other | 1 | 3 | 1 | 15 | 4 | 0 | | 0 | 0 | 24 |
| Black Other African | 2 | 2 | 0 | 17 | 8 | 1 | 0 | 0 | 0 | 32 |
| Black Somali | 0 | 0 | 0 | 2 | 0 | 0 | 2 | 0 | 0 | 2 |
| Mixed Other | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 3 |
| White & Asian | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 3 |
| White & Black | 1 | 0 | 0 | 1 | 0 | 1 | 2 | 0 | 0 | 3 |
| White & Black Caribbean | 0 | 0 | 0 | 5 | 1 | 1 | 0 | 0 | 0 | 6 |
| Other | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| White Other | 3 | 0 | 0 | 9 | 5 | 2 | 0 | 1 | 0 | 20 |
| English | 28 | 10 | 1 | 114 | 49 | 10 | 15 | 5 | 1 | 233 |
| White Irish | 0 | 1 | 0 | 6 | 3 | 0 | 0 | 0 | 0 | 10 |
| White Scottish | 1 | 0 | 0 | 1 | 4 | 0 | 0 | 0 | 0 | 6 |
| White Welsh | 0 | 0 | 0 | 3 | 1 | 0 | 0 | 0 | 0 | 4 |
| Declined to state | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| Missing | 3 | 0 | 0 | 7 | 0 | 1 | 0 | 0 | 1 | 11 |
| Total | 79 | 31 | 5 | 295 | 141 | 23 | 31 | 9 | 1 | 615 |

Source: London Borough of Tower Hamlets, 2011.

TUPE myths and facts

The Council published a Frequently Asked Questions on the Council Intranet in June 2011. It contained the following questions and answers on jobs:

“Q: What will happen with our terms and conditions?”

If any staff were to TUPE transfer across to a partner, their employment terms and conditions will transfer with them and remain with them.”

“Q. Is it true that TUPE of terms and conditions only last for 12 months?”

A. No. In general, your terms and conditions will remain with you. If, on termination, the service should be transferred to another supplier, TUPE will still apply and your terms and conditions will be protected.”

These two statements are incorrect. The TUPE regulations do not contain a time limit and private contractors usually seek to change terms and conditions within months of transfer. The regulations also allow for changes in staffing levels on

the basis of economic need and circumstances but require negotiation with trade unions.

Senior management have refused to answer questions from Trade Unions about what conditions have been stipulated to potential bidders on TUPE and employment conditions. In particular Trade Unions have asked whether they have been asked to guarantee “TUPE plus”, that is that terms and conditions and pensions rights are guaranteed throughout the life of the contract and that new workers on Tower Hamlets contracts are employed on equivalent terms and conditions.

“What will happen to our pensions?”

A. There are a couple of options regarding pensions. Potential partners may propose gaining Admitted Body Status (ABS) in the Local Government Pension Scheme (LGPS) or a “broadly comparable” pension scheme that delivers similar benefits. With ABS your pension benefits would continue to accrue within the LGPS as at present and be subject to any changes that are made to this scheme.

With a “broadly comparable” scheme the supplier would have to demonstrate that they were offering a comparable package of benefits and that staff are not disadvantaged.”

This statement is economical with the truth. Firstly, the Council has responsibility to *require* private contractors to apply for Admitted Body Status, it is not dependent on whether private contractors wish to do so or not.

Secondly, most private contractors, such as Capita, operate defined benefits pensions only for public sector contract staff. They have defined contribution/money purchase pensions schemes for their own staff. So anyone gaining promotion within Capita or remaining in their employment after the contract, will be moved to a defined contribution scheme.

Thirdly, the difference between the two schemes is significant. The members of ‘defined contribution’ schemes bear the investment and actuarial risks - their pensions are directly dependent on investment returns from employer and employee contributions.

TUPE Plus

TUPE Plus has the following advantages:

- Guarantee its last for length of contract.
- New starters on same/very similar terms and conditions.
- Recognition of annual pay awards.
- Maintain Local Government Pension Scheme (Local authority could underwrite).
- No restrictions on changes through promotion.
- Workforce development and equalities agenda.
- Full industrial relations machinery with trade union facility time.

Although the Coalition Government has withdrawn the Best Value Code of Practice on Workforce Matters this does not prevent Tower Hamlets Council or a private contractor from adopting this policy.

Location of work within Tower Hamlets

There is nothing to prevent potential bidders moving work and the workforce away from Tower Hamlets, or moving current workers onto work in other contracts in other locations. One of the potential bidders, HCL, is already involved in operating a call centre for services in another

Local Authority in India. This is likely to dilute any emphasis on recruiting and developing a local workforce. It would also weaken the relationship with other Council services. Agilisys operates a strategic partnership for the London Borough of Barking and Dagenham and could conceivably seek to transfer some Tower Hamlets work there at a later stage.

Economic consequences for Tower Hamlets economy

Outsourcing could result in:

- Loss of training.
- Deskilling of the workforce with a subsequent loss income.
- Casualisation of the workforce with greater insecurity, reduced terms and conditions and a higher proportion of jobs taken by non-Tower Hamlets residents (migrant labour).
- Knock-on impact in the local economy – a combination of fewer jobs and/or reduced terms and conditions resulting in lower spending in local businesses and the outsourcing company switching the supply of goods and services to its national supply chain.
- Additional jobs in Tower Hamlets created via shared services or the transfer of other contracts from neighbouring boroughs, may not be a net gain if Tower Hamlets residents already travel to work in these services for neighbouring boroughs.
- The transfer of Council work and employees out of Tower Hamlets. This will undermine the Council's economic development policies, reduce training and employment opportunities for Borough residents, and have negative economic consequences in the local economy.

Part 5

High-risk strategy

The Council is embarking on a high risk strategy, particularly given the absence of an options appraisal and business case that should have identified, allocated and assessed risks at various stages and discussed these with Elected Members and trade unions.

The key risks are grouped under the following headings in Table 7:

- Strategic risk
- Procurement risk
- Transition and Start-up Risk
- Democratic Governance Risk
- Operational Risk
- Contract Management Risk

Table 5: **Strategic partnership risks**

| Strategic partnership risks | |
|---|---|
| Strategic Risk | Operational Risk |
| Inadequate options appraisal & business case Objectives and strategy lack clarity Lack of risk assessment Lack of corporate impact assessment Significant changes in demand/volume Loss of control and flexibility | Cost reductions not achieved Changes in demand risks Service quality does not meet standards High level service user complaints Sub-performance of subcontractor(s) Innovation limited |
| Procurement Risk | Technology or system failure Hidden costs emerge Industrial relations/action disputes Changes in regulations Contractor seeks to renegotiate contract |
| Poor Invitation to Tender/Negotiate/CD docs Higher transaction costs Inadequate market research Bidders withdraw/submit incomplete bids | Loss of knowhow/intellectual property Budget cuts and affordability risk Loss of integration if services moved out of the Borough |
| Transition and Start-up Risk | Contract Management Risk |
| Loss of critical skills before or after transfer Low response/variable quality of bidders Evaluation matrix not comprehensive | Inadequate monitoring & reporting Effectiveness of performance assessment Lack of exit strategy Contract failure risk |
| Democratic Governance Risk | |
| Lack of oversight and scrutiny Accountability & reporting failure | |

Source: ESSU 2011.

The Council's Memorandum of Information makes reference to only three very general references to risks.

"...and helping us deliver our desired outcomes while sharing risk and reward" (page 22).

"Shared Risk and Reward approaches will be encouraged as the Council looks to maximize returns from its investment" (page 23).

"We are looking for a Partner keen to share risk with us and be rewarded for delivering the outcomes that matter to the Council" (page 32)

This is further confirmation that Tower Hamlets risk assessment for the strategic partnership has been superficial. All three statements refer exclusively to 'risk and reward'. There is no recognition of any of the risks summarised in Table 5. The Council will hopefully by now have a risk register, but the risks should have been identified **before** the procurement process commenced.

Elected Members need to understand the type, scale and the potential financial, service delivery, political and reputational consequences of risks with the proposed outsourcing of the ICT service and other Resource Directorate services.

The Council has embarked on a high-risk strategy.

Part 6

Alternative strategy for ICT and corporate services

A Tower Hamlets Council ‘good practice’ transformation process

The Council should adopt a new approach to the improvement of council services. This should consist of four parts:

Service reviews with service improvement plans: All services should be reviewed on a biannual basis to ensure they are performing to the required standards. Each review would include drawing up a Service Improvement Plan to set a framework for the next two-year period. If a service is not performing satisfactorily or is subjected to significant external change in demand or technological change would it proceed to the next stage of options appraisal. A template for a Service Improvement Plan is included in the Appendix.

Options appraisal: The options appraisal process consists of seven stages including a vision, demand and scope, the identification of options, the appraisal of options using comprehensive criteria, risk assessment, sensitivity analysis and optimism bias concluding with the selection of a preferred option.

Business Case: Normally the business case is amended to become the final business case once the procurement process has been completed and details of the contract can be included. The scope of a Business Case is summarised (Table 8 in the Appendix) to illustrate the degree of preparation required *before* a procurement process is commenced.

Engagement of staff and trade unions in review process: There is clear evidence from both public and private sectors that the most effective gains in service improvement are achieved when staff and trade unions are fully engaged in the process.

See the Appendix for further details.

Protocols

Protocols set out how the Council will undertake key stages of the service improvement process. Each protocol should contain a description of its scope, responsibilities, rights to information and how staff and trade unions will be involved. Protocols are an important way of establishing good practice and ensuring a common corporate approach. They should also make a clear commitment to in-house provision, managing job loss to avoid compulsory redundancies and maximise redeployment opportunities, and a commitment to workforce development opportunities for training and development and recognises the positive role of trade unions and Union Learning Reps in workforce development.

Protocols should cover:

- Options appraisal methodology
- In-house bids and public sector consortia
- Staff and trade union involvement
- User and community involvement
- Social and community needs assessment

-
- Equalities mainstreaming
 - Sustainable procurement
 - Community impact and benefits
 - Soft market testing

Best in class approach

A 'best-in-class' approach requires the Council to disaggregate its requirements and to seek the best supplier for each of the components. This is the opposite of a strategic partnership where the Council effectively selects the best all-round provider. But this approach is fraught with difficulties because:

- The best all-round supplier is frequently not the best in class provider of the key ICT components.
- The supplier of the best hardware/software is frequently not the best service provider, or the best-in-class provider of advice of how to improve service delivery.
- The contractor may rely heavily on subcontractors to provide key elements of the contract. This imposes additional coordination and contract management and monitoring requirements on both the contractor and the Council.

Case for in-house services

The economic case for in-house service provision is comprehensive:

- Economic case for in-house bids
- Improving community well-being
- Democratic accountability
- Equalities and social justice
- Sustainable development
- Protecting the public interest
- Financial advantages
- Corporate policies
- Better quality employment
- Capability and intellectual capital

Part 7

Recommendations

The Council should:

1. limit the contract award to ICT equipment, software and technical support connected with implementation.
2. decide not to award a managed services contract for ICT, or for any other Resource Directorate service.
3. develop and implement an in-house service improvement strategy consisting of the components set out in Part 6 and the Appendix of this report.
4. re-appraise the means by which the Council will improve services and apply ICT, in conjunction with staff and trade unions.
5. negotiate a series of Protocols with UNISON and other trade unions to establish staff and trade union involvement in the service improvement process.
6. request the Mayor's Advisory Board and Overview and Scrutiny Committee carry out an urgent review of the procurement process. The new Mayoral structure of the Council inherited a procurement regime, which in the light of the findings of this report, requires review and to make recommendations based on the lessons learnt.

Appendix

Good Practice Service Improvement Service Reviews and Service Improvement Plans

A Service Review should take account of future service needs, service performance, financial resources, the views of service users and staff and Council policies and priorities.

Future service needs and performance

Questions can be used to help to identify changes in the scope, level and type of changes, which will impact on the future provision of a service. For example:

- What is the purpose of the service?
- What are the current and future needs of internal and/or external service users?
- Have existing inequalities been identified and mapped?
- What is the potential impact of demographic, technological, economic and other changes on the service?
- How could the service make a bigger contribution to the Councils strategic aims?
- Is there an evidence base to support this assessment?

Service performance and resources

- Recent service delivery performance and cause/effect underpinning performance.
- Improving business processes to review service delivery and working practices.
- Budget strategy and financial resources
- Improving efficiency through investment in ICT.
- Reducing energy usage.
- Reducing the cost of supplies and services.
- Workforce skills, training and development

Views of service users and staff

- Assess the views of service users?
- Assess the views of staff and trade unions?

Conclusion of a service review

Three potential conclusions at completion of the review:

1. If the performance of the service is good or satisfactory, **no further action should be necessary.**
2. **If the review identifies some weaknesses in service performance it should be retained in-house with a Service Improvement Plan.**
3. If the service does not substantively meet performance standards or service needs and fails to achieve improvement targets and timescales then a full Options Appraisal should be carried out.

Service Improvement Plans

Service Improvement Plans (SIPs) should combine a vision for the service with a strategy and programme, which sets the course for the service over a three-year period.

Table 6: **Service Improvement Plan**

| Service Improvement Plan | |
|--|--|
| Item | Content |
| Scope | Identify services and functions in scope of the improvement plan. |
| Priorities for improvement | Identify each of the improvement priorities in relation to operational systems, management practice and organisational structures. |
| Objectives | Ensure the aims and purpose of each improvement is clearly stated based on an understanding of the cause/effect of performance weaknesses and/or opportunities for improvements. |
| Results expected | Identify the planned impact, outputs and outcomes of the improvements. |
| Period covered: | Essential to cover a 2 or 3-year improvement programme. |
| Management of change | Application of Business Process Reengineering and how service standards will be maintained in a period of reorganisation. |
| Action to be taken | Specify what action is required to implement each proposal. |
| Resources and investment required | Financial costs of improvements, changes in use of assets including equipment & buildings. |
| Training, staff recruitment/redeployment | Identify human resource changes needed to support implementation. |
| Corporate action | Change required at Corporate level to ensure successful implementation of improvements and achievement of wider benefits. |
| Staff/trade union involvement and consultation procedures | Agreement on involvement of staff and trade unions in service improvement plan process and reporting progress/issues. |
| Responsibility and management accountability | Elected Member responsibilities together with officers, managers responsible including names/posts and contact details. |
| Timetable | Dates when proposals will be commenced and completed. |
| Monitoring and reporting progress | Regular reporting of progress to users, elected members, Corporate Management Team & staff. |
| Scrutiny review | Review on annual or six monthly basis. |

Table 7: Options Appraisal Process

| Options Appraisal Process |
|---|
| <p>1. Preparation</p> <ul style="list-style-type: none"> • Clarity of objectives • Management of options appraisal process • Agree methodology and resources • Record and evidence • Selection of criteria • Consultation plan |
| <p>2. Vision, demand and scope</p> <ul style="list-style-type: none"> • Current and future user needs • Drivers for change • Current performance • Maximise technology for social and economic benefit • Demand forecasts • Operational variants • Investment requirements • Benchmarking |
| <p>3. Identification of options</p> <ul style="list-style-type: none"> • realistic, sustainable and likely to have organisational and/or political support; • compatible with the corporate objectives and priorities of the organisation; |
| <p>4. Appraisal of options</p> <p>Options should be assessed using the following criteria:</p> <ul style="list-style-type: none"> • Design and scope • Accountability, governance and participation • Financial assessment • Quality of service • Local economy and community wellbeing • Quality of employment • Sustainable development • Ability to address social justice and inequalities • Capability, management and intellectual knowledge • Organisational arrangements • Added value • Corporate impact on the authority |
| <p>5. Risk Assessment</p> |
| <p>6. Sensitivity analysis and optimism bias</p> |
| <p>7. Selection of preferred option</p> <ul style="list-style-type: none"> • Report to Cabinet/Board • Review of options appraisal process |

Table 8: Key Elements of a Business Case

| Key elements of a Business Case |
|--|
| <p>Strategic case</p> <ul style="list-style-type: none">• Policy context and strategic fit• Service needs and requirements• Rationale for change• Critical success factors and objectives• Corporate impact• Strategic risks• Assessment of constraints, dependencies and opportunities |
| <p>Economic Case</p> <ul style="list-style-type: none">• Justification for option• Cost benefit appraisal• Transaction costs• Sensitivity analysis• Value for money assessment |
| <p>Commercial case</p> <ul style="list-style-type: none">• Risk assessment• Employment and equalities policies |
| <p>Financial case</p> <ul style="list-style-type: none">• Capital and revenue forecasts• Third party income• User charges• Contingency plans for costs overruns and liabilities• Affordability based on whole life costs |
| <p>Management case</p> <ul style="list-style-type: none">• Governance arrangements• Service transformation• Stakeholder involvement• Benefits realisation plan• Contract management, monitoring & review |

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