



Critique of Barnet Council's Options Appraisal of Adult Social Care In-House Provider Services

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Executive summary

The Adult Services option appraisal is limited in scope and depth of analysis and does not provide an acceptable evidence base on which to make fundamental decisions about the future provision of the services. The Council has a fiduciary duty to safeguard the public interest in the management of public services and assets and an obligation to maintain the integrity of the options appraisal and procurement processes. The Adult Social Care In-House Provider Services options appraisal fails to meet these obligations and responsibilities.

The options appraisal process is flawed because it is operating to a predetermined agenda, it is not comprehensive, nor in sufficient detail to examine the impact and consequences of the options. The examination of options was uneven and did not fully examine the advantages and disadvantages of each option. The evidence base and the quality of data also raise questions about whether value for money has been properly assessed.

The choice of consultant to carry out the appraisal demonstrates poor judgement and undermines the integrity and independence of the options appraisal process and resulted in an inherent bias in the options appraisal from the beginning.

Recommendations

The internal Investment Approvals Board (IAB) should:

1. Delay approval of the options appraisal and require further work be carried by officers.
2. Staff and trade unions should be involved in the options appraisal process. This should be based on genuine engagement and not limited to consultation about the appraisal recommendations.

The following recommendations are applicable to all future options appraisals carried out by the London Borough of Barnet:

1. 'High level' options appraisals should be replaced with a more rigorous and comprehensive options appraisal assessment.
2. The Council should cease to engage consultants to prepare options appraisals. The Adults Services appraisal could have been undertaken within the Council and at much lower cost as is the case for other Future Shape projects. The use of external resources should be focused on obtaining technical or specialist support if this is required.
3. The methodology should consist of a fair appraisal of each option assessing costs and benefits, advantages and disadvantages.
4. The Council should issue an options appraisal template and best practice methodology to ensure a common corporate approach, which can also draw on the lessons learnt.
5. Overview and Scrutiny Committee should review the options appraisal methodology as a matter of priority.

Part 1

Introduction

The Council commenced an options appraisal of Adult Social Care Provider Services in April 2010, engaging management consultants, Care and Health Solutions, to carry out the appraisal.

Services within scope were:

- Learning Disability Service (Rosa Morison, Flower Lane Autism Service, The Space, Agatha house, Valley Way, Supported Living and the Community Support Team)
- Mental Health Services (The Network)
- Physical Disability Services (Barnet Independent Living Service)
- Business Support Unit

Cost of the services: The 2010/11 gross budget is £6.95m plus £1.44m corporate support costs.

Number of jobs: These services employ 147.4 Full Time Equivalents (FTE), over 160 full and part time jobs.

Options identified in appraisal:

1. Closure and the non provision or re-provision of service
2. Remain In-House
3. Tender (or trade sale)
4. Social Enterprise (New set-up)
5. Local Authority Trading Company (LATC)
6. Transfer to ALMO (Barnet Homes)
7. Joint venture Company (with other independent organisations or other partners - other Boroughs or NHS Trust)

Part 2

Options appraisal process

The Council engaged management consultants, Care and Health Solutions, to carry out the options appraisal. This firm had implemented the transfer and externalisation process of Essex Care and had run the business for the first six months. Barnet Council wanted to 'learn the lessons' from their experience as it is one of only two transfers of care services to a Local Authority Trading Company model.

Whilst learning lessons is good practice, the choice of these consultants demonstrates poor judgement and undermines the integrity and independence of the options appraisal process. By using the above consultants it is quite understandable that there is an inherent bias in the options appraisal from the beginning.

The Adults options appraisal recommends:

“This high level options appraisal would suggest that these services are transferred to become one part of a larger Local Authority Trading Company that also incorporates Barnet Homes...” (page 3).

What this means in practice is that the options appraisal is limited in scope because it does not examine all the issues pertinent to each option. Secondly, it failed to carry out meaningful consultation with staff, trade unions and service users. This avoids more difficult questions being raised and/or the assumptions about the future of the service and users needs being challenged and keeps the appraisal at a 'general' level. A series of trade union questions about options appraisal, submitted in May, were answered *after* the report was completed.

One of the questions asked about the difference between a 'high level' and a full options appraisal. The reply described the difference as:

“The high level options appraisal aims to hone down the number of options under consideration. A full business case then examines in much greater detail the viability of the option under consideration including a full stakeholder and staffing consultation. It would not be a prudent use of public resources to develop a full business case for each of the options, therefore a high level options appraisal was conducted first.” (Adult services response to questions)

Firstly, the 'high level' options appraisal has not reduced the number of options but selected a preferred option.

Secondly, the plan to prepare a full Business Case for this option reinforces the preferred options and terminates further consideration of the other options.

Thirdly, it would be a waste of public resources to prepare a full business case for every option. Barnet trade unions have never recommended this approach. The Transformation toolkit and the other reports published by Barnet trade unions have set out best practice in considerable detail.

Fourthly, there is no justification for a 'high level' options appraisal. The Council should focus on a rigorous options appraisal process, based on best practice recommended by the Office for Government Commerce, Local Partnerships and other

public agencies, with the objective of 'getting it right first time'. 'High level' appraisals also run the risk of having to repeat the process at a later date.

Fifthly, it was stated at the presentation in July that "*the services were fit for transfer*" yet the options appraisal does not provide sufficient analysis or evidence to justify this conclusion.

Finally, there is nothing in the Adults report that could not have been produced by Council staff in the directorate, with or without corporate support. The Council could have saved money by having in-house staff carry out the options appraisal.

The Barnet approach

The Adult Social Care options appraisal process indicates that Barnet Council is adopting a five-stage approach:

1. Decide on a preferred solution or the 'direction of travel'.
2. Select a consultant who will deliver the 'right' solution.
3. Undertake a 'high level' options appraisal which is superficial in scope and 'consultation'.
4. Prepare a Business Case for the preferred option.
5. Commence the procurement or transfer process.

This is a flawed process because:

- It is operating to a predetermined agenda.
- It is not comprehensive, nor in sufficient detail to examine the impact and consequences of the options.
- Lack of evidence base on which to base assessments.
- Questions about the quality of data used.

Part 3

Analysis of the options

General comments

The assessment of options is uneven, for example the list of claimed benefits for the social enterprise and LATC models (section 6.7.5) was not matched by an appraisal of the disadvantages or costs/disbenefits of this model. The disadvantages of the LATC (para 6.7.4) were superficial because they focused on appearance and opinion and did not cover organisational or operational matters. The matter of governance was raised but limited because there are only two LATCs in social care – this ignores the pertinent experience of arms length companies in local government.

In-house option

The appraisal described the in-house option as *'business as usual by LBB through existing internal arrangements'* (para 6.4.2). The response to trade unions questions also repeated this statement

"In our opinion this would be business as usual as all Council services will be required over the next three years to become more efficient and to reduce their costs." (Adult Services response to trade union questions)

Firstly, no in-house option should be described as business as usual. Service improvement and development has to be a core dimension, irrespective of the economic conditions.

Secondly, each option has advantages and disadvantages, costs and benefits that should be identified and assessed.

Thirdly, the advantages of in-house provision should be fully considered and taken into account in the appraisal. Little attempt was made to do this in the Adults Services options appraisal.

The report also includes the following statement:

"Direct services do not have the benefit or legal freedom to trade commercially with service users in a manner which would allow more radical service redesign and response to personal budgets and direct payments and also the expectations of future generations." (para 6.4.2)

This broad statement is neither explained or explored. In-house services can trade, can create a surplus for reinvestment, can radically redesign services working with service users, and can plan for the future.

Social enterprise model

The appraisal appears to be based on a distorted view of the economics of social enterprises:

"Social Enterprises established by LBB could help to ensure that some services of last resort (where no other provider is available or willing to take on the responsibility of providing a service either because it was uneconomic or commercially unattractive), remain within a social care value driven organisation" (Para 6.6.2 of report).

Whilst the report emphasizes that trading goods and services is the core activity of every social enterprise, they cannot survive in a residual role providing ‘uneconomic or commercially unattractive’ services. This is a distortion of the role of social enterprises which have to create a surplus to provide the social benefit that is their rationale and to reinvest, like all organisations, in developing services, re/skilling staff and other initiatives. No organisation is sustainable providing uneconomic activities.

Employee Cooperatives

The appraisal correctly concludes:

“...the benefits will only be realised if employees buy into concept of employee ownership and see how it will benefit them individually” (para 6.6.5.4).

However, the options appraisal provides no information about staff views on this option.

Local Authority Trading Company

The appraisal claims that the social enterprise and Local Authority Trading Company (LATC) models will *“...promote further choice and competition in the Barnet market place”* (para 6.7.5.1). The mere transfer of the service will not increase choice nor change the level of competition in Barnet. These are both false arguments.

“These services can adopt commercial disciplines to increase productivity and develop a culture of continuous improvement” (para 6.7.5.1). A culture of continuous improvement is not exclusive to commercial disciplines – the services provided by Barnet Council are already highly rated. The adoption of a commercial discipline could result in a decline in the quality of service.

Simplistic ideological statements do not reflect the problems facing these services, irrespective of who provides them.

The benefits of a social enterprise and LATC options are also claimed to include:

“These services can retain the vital function of being the provider of ‘last resort’ in cases of emergency or market failure, and allow LBB to satisfy its statutory duties” (para 6.7.5.1).

A social enterprise will be in the same position as private and voluntary sector providers and cannot be considered as a provider of ‘last resort’. The Council would have no more legal or economic call on a social enterprise than other providers.

The social enterprise and LATC options are also claimed to enable ‘strategic outcomes’ to be achieved such as:

“The model through the Business Plan will enable greater scrutiny to achieve value for money outcomes for the services”

“... generate a formalised contractual relationship between LBB Commissioning, Care Management and Provider arm based on a clear and transparent specification that can include performance outcomes”

“...enable year on year efficiency savings for these front line services to be set against contract, providing LBB with year-on-year reduction in contract price through a tapering contract” (para 6.7.5.2).

These outcomes could be achieved with all the options, except an in-house service would not have a contract. Value for money and budget reductions would be applicable in all cases. This is another example of ‘high level’ appraisal in which

advantages are selectively attributed to chosen options, thus presenting Members and senior officers with a distorted perception of reality.

Another statement claims *“the LATC model can be a relatively cheaper solution compared to most other option appraisal choices in terms of the transformation costs and reduced risk pricing...”* (para 6.7.5.3). However, the appraisal did not assess transformation costs or risk pricing for any of the options and there is no evidence to support this statement.

The report claims the LATC model *“...allows LBB to keep its longer term options open with a future tender exercise to the open market remaining an option at the end of the contract term”* (para 6.7.5.3). This is not unique to this option and is applicable to the in-house, social enterprise and LBB arms length management organisation options.

Transfer to Arms Length Management Organisation (Barnet Homes)

The report assumes that this option will replicate the benefits of the LATC model and synergies with Barnet Homes (para 6.8). However, no attempt is made to identify the synergies.

Selection of options

The PID document for the project stated that *“all options are to be considered including doing nothing and a management buy-out”*. The options appraisal contains no reference to either option.

The purpose of options appraisal is to identify and compare feasible alternatives. ‘Doing nothing’ is not an option and should never have been included in the PID document. The appraisal should have explained why the management buy-out option was excluded, even if it wasn’t an option in the first place.

Part 4

Other key appraisal issues

The section addresses a number of important issues that have not been addressed in the preceding part of the report.

Equal opportunities

The options appraisal is totally devoid of equal opportunities policy implications – no reference to the gender/race of staff and service users, no assessment of the potential impact of the options on staff or service users.

Governance and accountability

This is considered only briefly for a company structure for the Barnet Homes option. Otherwise the appraisal contains no assessment of the potential consequences and differences in each option?

Staff and trade union involvement

The trade unions have not been involved in the options appraisal despite a statement in the FAQ for the Adults Services project in May:

“Yes, the unions will be involved. Full consultation with all stakeholders, including the Unions, about the available options will take place.”

A presentation was held for trade unions in July after the report was approved by the Project Board on 30 June.

The response to a trade union question about how are staff going to be involved in the development and appraisal of service delivery models submitted to Adult Services stated:

“The development of the full business case will be the subject of full staff and stakeholder engagement. The staff details of this will be set out in a staff and trade union engagement plan.”

This process has raised a number of important issues:

- Staff and trade unions need to be involved in the options appraisal process. The Council is failing to draw on staff skills and experience.
- Engagement in preparation of the full Business Case is going to be limited if staff consider that their views and experience have been ignored in the appraisal process.
- Consultation at the best of times, but particularly after the decision making process, is neither engagement or involvement. It is simply about communicating a message.

The Council has an opportunity to involve staff and trade unions in the transformation process and should seek ways of making this a reality.

Jobs, terms and conditions

The options appraisal has the following statement:

“In transferring the workforce a business case decision will be needed on whether the newly formed company will offer the same terms to new employees post transfer or look to amend to „broadly comparable” including reverting to a stakeholder pension option. This will probably be a decision for the Board of the transferring organisation post transfer and will depend on the ability of the new organisation to meet any savings targets without recourse to an immediate review of terms and conditions for new employees” (para 8.5).

If the Council intends to create the conditions for a repeat of post-transfer Fremantle-style changes to terms and conditions then there will almost certainly be strident staff, trade union and community opposition. It is revealing that an options appraisal with limited analysis can suddenly develop more detailed strategies designed to reduce terms and conditions for staff. It indicates a cavalier attitude to the legal requirements under the TUPE regulations:

Pensions

Most staff are almost certain to want to retain membership of the Local Government Pension Scheme. However, references in the options appraisal to “...the new business being *mindful* ...” of the Code of Practice on Workforce Matters (para 8.6) will not give them confidence that admitted body status or an approved comparable pension would be rigorously pursued as a condition of transfer or that contract requirements would be adequately monitored post-transfer.

The options appraisal does not even identify the number of people employed by the services and simply refers to FTE.

No reference to TUPE Plus despite this employment model being considered by the Council at the time the option appraisal was carried out.

Data and information problems

The options appraisal is based on very limited data, primarily the gross budget for 2010/11, projected income, the projected net cost to the Council and staffing costs as a percentage of total costs. It also provided staffing levels in FTE's. The description of each service included an 'indicative budget' but the table (para 5.6.4) repeated this information as financial facts, failing to describe income, net cost and percentage staff costs as 'estimated' or 'projected'. This paragraph states in bold text that corporate overhead costs of £1.44m are not included in the table. No information is supplied on previous financial performance nor on the current or forecast demand (or broad demand scenarios) for the services.

The Project Initiation Document (PID) stated that the project was reliant on “*accurate and quality data on the cost, performance and outputs of these services*” yet the options appraisal is based on limited hard information.

The trade unions raised this matter in the questions submitted to Adult Services asking how the significant gaps in the PID document with respect to risks on the availability and quality of data be addressed to enable a full Value for Money assessment to be carried out? The response that “*this risk did not materialise as a result of mitigation through the Project Board and therefore was not an issue*”. The paucity of information and analysis in the options appraisal would appear to justify trade union concerns on this issue.

The lack and the quality of the data raises some important questions:

1. Should Elected Members and senior management be making decisions about the future of services and staff based on minimal information?
2. Issues about productivity and efficiency cannot be fully addressed without reasonably accurate data.
3. The potential impact of the planned changes in corporate support services should be taken into account in all options.

Effect of budget cuts and savings

Despite many references to ‘the business’ and the current financial pressures, there is no analysis in options appraisal of the potential effects of different levels budget cuts. Public spending cuts of between 25% - 40% are referred to frequently, yet the effect of this scale of cuts on the services in question would be dramatic and very damaging. The PID project document refers to “...*efficiency savings of 15% over three years following implementation*”.

The Council would be embarking on a dangerous strategy if it decided to transfer and outsource services as rapidly as possible on the basis that the largest cuts are made after privatisation. Contractors, not the Council, then have to make redundancies, cut terms and conditions and even close some services.

Major decisions concerning services being delivered for some of the most vulnerable residents in the borough should not be shrouded in secrecy.

It is essential that options appraisal be carried out in an honest and rigorous way using a realistic economic framework.

The proposed savings are:

- a 2.5% - 10% reduction in running costs - £120,000.
- a reduction in sickness levels by 50% - £213,000.
- a reduction in corporate overheads.

However, there is no indication of how the savings in running costs will be achieved. The figure quoted is for the high end of the range, although this figure is from a significantly larger local authority.

Most of the savings are not exclusive to a LATC or Barnet Homes options. All three types of savings could be achieved by in-house provision.

The cost figures for ALMO savings (Table 3) are merely indicative and make a number of questionable assumptions about the extent to which the Barnet Homes could absorb additional staff and responsibilities and implement a new corporate structure at low cost. Barnet Homes employed an average of 290 staff in 2009 - excluding agency staff (Barnet Homes, 2009). Table 3 appears to under-estimate the cost of a 55% increase in Barnet Homes staff with regard to additional employment, support and administrative services.

New business and income streams

Given the complex situation the services are confronted with, the options appraisal has an obligation to consider potential future income in a more comprehensive analysis. General references to the power to trade, new markets and products are frankly, meaningless. There is not even a basic economic analysis of what this

'market', let alone an assessment of the different options capability to take advantage of these new developments.

Evaluation criteria

There is no analysis or evidence base to support the scoring, which appears to be arbitrary and inconsistent.

There are a number of outstanding questions that need to be resolved before decisions are made on the options appraisal.

- What is the evidence base and how is each score justified?
- What does "acceptability to the Council" mean – this is virtually the same as "strategic fit for transforming social care" and thus suggests a high level of double counting. It appears from the scoring that it means alignment with outsourcing and privatisation.
- The criteria are flawed – the concept of acceptability is crude. A more systematic assessment would include separate criteria on quality of financial assessment, quality of service, equalities and social justice, corporate impact and accountability/governance.

Finally, there are serious inconsistencies in the table:

- The five scoring difference on strategic fit and deliverability between in-house and the Barnet Homes options appear to be contrived.
- How can the closure of the service get 1 point for all six criteria – would there not be negative consequences and how can 'staff' get the same number of points as a trade sale?
- On what basis do they give significantly higher scores to 'acceptability to the customer'?
- What is the justification of the 3-point differential in VFM between the in-house and Barnet Homes options?

Part 5

Conclusion and recommendations

Conclusion

The Adult Services option appraisal is limited in scope and depth of analysis and does not provide an acceptable evidence base on which to make fundamental decisions about the future provision of the services. The Council has a fiduciary duty to safeguard the public interest in the management of public services and assets and an obligation to maintain the integrity of the options appraisal and procurement processes. The Adult Social Care In-House Provider Services options appraisal fails to meet these obligations and responsibilities.

Recommendations

The internal Investment Approvals Board (IAB) should:

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