



Draft

Protocol: Service Review, Options Appraisal & Procurement

Between London Borough of Barnet and
UNISON, GMB, NUT and NASUWT

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European Services Strategy Unit

(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.

Introduction

The Protocol is designed to cover Service Reviews, Options Appraisals, the preparation of Business cases and the Procurement process. It is based on UNISON's national procurement protocol but with several additions and a new section on in-house bids (in bold red italics).

Draft Protocol:

Service Review, Options Appraisal & Procurement

between

London Borough of Barnet & UNISON, GMB, NUT and NASUWT

General principles

- 1.1 This agreement sets out how Barnet LBC and all its departments / sections will involve and consult the trade unions in the key stages of the service review, service transformation and/or procurement process. This will not apply to the purchase of goods.
- 1.2 Barnet LBC will involve and consult the recognised trades unions (hereafter called the trade unions) in all parts of the commissioning and procurement cycle before any key decisions are made, including service reviews, options appraisals, and where relevant throughout the active procurement stage from advertising the contract through to contract award and subsequent contract monitoring.
- 1.3 Barnet LBC and the trades unions are committed to providing high quality services that meet the needs of local communities. Barnet LBC recognises that trade union involvement is positive for facilitating change, protecting the workforce, encouraging positive staff engagement, and raising service standards.
- 1.4 There will be regular engagement and consultation with the trades unions throughout the commissioning and procurement process and trades unions will have an opportunity to input and comment on all aspects of the procurement process before key decisions are made. The parties will agree structures and timetables that enable this to happen.
- 1.5 Any proposed reorganisation of services will be equality impact assessed, including the impact on staff and on equal pay in line with the statutory public sector equality duties and Barnet LBC's Equalities scheme(s).
- 1.6 A consistent and common approach, based on the principles of this agreement, will be applied by the Central Procurement Unit (or other relevant body) to all activities relating to procurement.
- 1.7 ***The Overhead & Scrutiny Committee, drawing on operational experience of all participants, will subject protocols to periodic review.***

Statutory/Policy background

- 2.1.1 Statutory and policy guidance requires that procurement decisions by authorities should take proper account of the workforce issues.

Section 6.9 of “Creating Strong, Safe and Prosperous Communities” (July 2008) states that “Authorities should also involve front-line staff in the commissioning of services, making use of their commitment and expertise.”

- 2.2 Local Authorities must, as a minimum, make sure that "Staff and unions should be involved in the option appraisal stage and where there is a decision to outsource, staff and unions should be involved in the selection process and in the subsequent detailed work around the transfer." *Best Value and Procurement: Workforce Matters in Best Value Authority Contracting*

- 2.2 PCT's must ensure that “robust arrangements are in place for staff engagement and trade union consultation throughout the process” *Transforming Community Services: Enabling new patterns of provision*

Service review and options appraisal

- 3.1 Barnet LBC will inform the trade unions of the **objectives, scope of service and timetable of** any proposed service reviews **or options appraisal** and fully consult and engage with them throughout the review process.
- 3.2 Barnet LBC will carry out a full options appraisal before any formal procurement process is commenced. Trades unions will be consulted over the appraisal method, assessment criteria, and involved in the options appraisal itself.
- 3.3 Barnet LBC will assess social, economic, equality and environmental impact at both options appraisal and bid evaluation stages. The assessment and evaluation of all proposals will take into account the costs, loss of direct management control and any risks to service provision from out-sourcing services.
- 3.4 Barnet LBC will ensure that a properly resourced in-house service improvement plan will precede and inform any procurement process, and be included in the options appraisal exercise. Where it is decided to carry out a formal procurement exercise it will include a fully supported and resourced in-house bid. (where Public Authority is commissioning only – see 3.5 below).
- 3.5 Trade unions will be consulted on the proposed use of management or technical consultants in service reviews, options appraisals, development of a business case or preparation of in-house bids.

The procurement process

- 4.1 Barnet LBC will consult the trade unions on the drafting of any PIN / OJEU notice it proposes to issue. The trades unions will also be invited to participate in and have input into the contents of these notices, soft market testing exercise, bidder conferences and open days.

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- 4.2 Barnet LBC will facilitate meetings between the trade unions and potential service providers and short listed bidders at key stages of process.
 - 4.3 Trade unions will be invited to participate in the selection process of contractors. The trades unions will be given the opportunity to meet with and be included in the interviewing of short-listed bidders. Where requested the authority will also facilitate visits by union representatives to sites where the bidders have contracts. **Trade unions can select their own representatives for meetings with contractors and site visits.**
 - 4.4 Where the competitive dialogue procedure is used, arrangements will be made for trade union involvement and consultation at the solutions stages prior to a final tender being invited.
 - 4.5 Where the negotiated procedure is used the Barnet LBC will facilitate full discussions between trade unions and the Barnet LBC's preferred bidder prior to contract award.
 - 4.6** Trade unions will be consulted and engaged in the preparation of the Invitation To Tender, Invitation To Negotiate or Invitation To Competitive Dialogue with regard to the employment policies, phasing and variant bids.
 - 4.7 Facility time and facilities will be made available for trade union training of representatives during options and procurement process.

In-house bids

- 4.8 Properly resourced and supported in-house bids will be allowed where services are tendered, irrespective of the current provider of the service.
- 4.9 Trade unions will be consulted on the principles and approach of the in-house bid including proposed service improvements, changes to working practices and staffing levels.
- 4.10 Trade union and community proposals in alternative plans or blueprints will be given full consideration in the preparation of in-house bids.
- 4.11 In-house bids will given fair and equal treatment in the evaluation process.

Access to information

- 5.1 The trades unions will be given timely access to all of the relevant information, including Outline Business Case, at each stage of the service review, options appraisal, and procurement process.
- 5.2 Barnet LBC will seek agreement with bidders that will ensure appropriate and timely access by the trades unions to all relevant information.
- 5.3 Information will be provided on the basis that the trades unions may use it for reasonable communication of relevant issues with their members and advisers.
- 5.4 Where the authority considers that any information is commercially confidential the union will be informed that the information is being withheld and the reasons. The commercially confidential information will be made available to the nominated representative(s) and adviser(s) of the trade union(s) subject to a requirement to sign a

confidentiality agreement. The trade union(s) will be required to agree to ensure this information is kept securely.

- 5.5 The Authority will provide assistance to the trades unions in the interpretation of information and proposals, including where appropriate financial support to enable the trade union to have complex information analysed.

Workforce issues

- 6.1 Barnet LBC recognises that major procurement exercises are complex and time-consuming for the authority, and that meaningful involvement in this process by trade union representatives brings a significant additional workload. Therefore, the union branch will be granted additional facility time to fulfil these duties and have access to meeting with members in the lead up to and during a significant procurement process.
- 6.2 Staff will be given paid time off to attend trades union meetings at key points in the process.
- 6.3 In any service changes, Barnet LBC will take steps to avoid compulsory redundancies and maximise redeployment opportunities.
- 6.4 Barnet LBC is committed to workforce development which maximises opportunities for training and development and recognises the positive role of trade unions and union learning reps in workforce development. A similar approach will be required from bidders for the Authority's contracts.
- 6.5 Barnet LBC will support its own compliance with statutory public sector equality duties and its own Equalities scheme(s) by including specific requirements for, and monitoring of, contractors to improve equality for the workforce providing public services.
- 6.6.1 Barnet LBC is committed to fully protecting the pay, conditions, and pensions of the workforce where possible through a "TUPE plus" type agreement or where appropriate a secondment arrangement. The authority will ensure protection either through secondment arrangements or by ensuring that workforce commitments and protections are embedded within tender documentation, contracts and re-tenders.
- 6.7 Where permissible Barnet LBC will require any successful contractor to secure admitted body status in the LGPS.
- 6.8 Barnet LBC will apply the "Two-Tier Code"/"Cabinet Office Code on Workforce Matters in Public Sector Service Contracts" within all contracts and re-tenders to all procurement processes and re-tenders and **subsequently monitor its application at least annually**.
- 6.9 The Authority will encourage contractors to recognise trades unions for new starters as well as transferred employees.
- 6.9.1 [Optional: The principles of this agreement are fully compliant with the "Two Tier Workforce Agreement" also in place between Barnet LBC and trades unions.]