Critique of the

Development and Public Health Services Options Appraisal

One Barnet Programme

London Borough of Barnet

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.

Contents

Tables

Executive summary

The proposed outsourcing of planning (development management), transport planning, regeneration, highways design and development, environmental health, trading standards, building control, Hendon Cemetery and Crematoria and other services raises fundamental issues, not least that this could be the first of several large contracts in Barnet.

The purpose of the Options Appraisal process is to identify and rigorously assess all the potential options available to the Council for the future delivery of services. However, **the Development and Public Health Services Options Appraisal is fundamentally flawed.** These are high-performing, low cost services, yet the Council is planning to outsource them to a strategic partnership that nationally achieve 8.3% savings, half those claimed by the options appraisal.

Omissions from the appraisal

- The Options Appraisal **addresses only the efficiency One Barnet objective**. It does little to contribute to 'a new relationship with citizens' because citizens were not involved in the options appraisal. Although the report makes reference to a 'citizen-centric service', this is not substantiated in any shape or form.

Limited selection of options

- The Options Appraisal does not assess the potential scope of a realistic and sustainable in-house option. The concept of a 'Status Quo Plus' option (a contradiction in terms) was designed to fail and **is not a credible option**.

Quality of the Options Appraisal

- The report contains many sweeping assumptions that are **not supported by facts, empirical evidence or case study experience.**
- The Development and Public Health Options Appraisal is **neither an adequate options appraisal to ensure the Council achieves value for money nor is it a comprehensive benchmarking study.**
- It does **not provide sufficient analysis and information for the Council to be confident that it has selected the best option.**
- The Options Appraisal is **devoid of any consideration of equality issues** for service users, citizens or for staff.
- It does **not provide any forecasts nor address the threats and opportunities likely to be encountered in increasing fee and/or third party income**.
- Up to 300 staff are affected by the Options Appraisal and their anxiety and fears have been greatly increased by **the lack of concern for their interests** or even an understanding of who they are.

Evaluation of options

- **The estimation of potential savings appears to be based on rough estimates and assumptions. The Council would be unwise to make**

decisions based on these figures. The Options Appraisal is a failure of commissioning.

- The evaluation matrix lacks credibility because **no evidence has been supplied to support the application of the criteria and the scoring.** Another set of assumptions would give a completely different conclusion.

Track record of Strategic Service-delivery Partnership (SSP) contracts

The termination and significant reduction of five SSP contracts, major issues and/or changes in five other projects and eleven local authorities rejecting an SSP in the procurement process indicates this is a high-risk strategy. An assessment of the track record of SSPs is missing from the Development and Public Health Services Options Appraisal.

Achieving the One Barnet objectives

The achievement of the One Barnet objectives is not dependent on outsourcing services. The Council could more rapidly achieve these objectives by engaging staff, trade unions and local community organisations to fundamentally challenge the way in which services are delivered.

Recommendations

The London Borough of Barnet should agree to:

1. **Delay the commencement of the formal procurement process – the Development and Public Health Services Options Appraisal requires significant further investigation and analysis.**
2. **The Council should develop the Options Appraisal with a properly designed in-house option that draws on innovation, improvement, new delivery methods and service integration; draw on the skills and experience of staff, and engage with trade unions, local community organisations and Barnet citizens.**
3. **An options appraisal should be carried out for the services added to the bundle - Regeneration, Transport Planning and Highways – to ensure that value for money and sustainability of these services is fully addressed.**
4. **The evaluation framework should be re-designed to provide an evidenced, more comprehensive and rigorous assessment of the cost and benefits of each option.**
5. **Staff and trade unions should be involved in the options appraisal and transformation process. This should be based on genuine engagement and not limited to briefing about the appraisal recommendations.**
6. **The Council should disclose what information has been withheld from the public version of the options appraisal and give reasons for why this information was withheld.**
7. **The Business Case should be subjected to a Gateway Review (a peer review of how the process achieves the objectives) prior to commencement of a formal procurement process.**
8. **The One Barnet Overview and Scrutiny Panel should examine the options appraisal methodology and Business Case before a further report is submitted to Cabinet.**

Part 1:
Introduction

A Project Brief for Development and Public Health Services was published in early April 2010 and subsequently consultants Impower and Agilisys were commissioned to prepare an options appraisal (London Borough of Barnet, 2010a). The following services were initially considered within scope:

- Building Control and Structures (including Street Naming & Numbering)
- Planning (Development Management)
- Land Charges
- Environmental Health (Residential and Commercial sectors)
- Public Mortuary and Cemetery & Crematorium
- Trading Standards & Licensing
- Registration

The options appraisal recommended the inclusion of Regeneration, Transport Planning and various Highways functions (see Part 2).

Options examined

The Options Appraisal examines eight “market options” which the report describes as:

1. Private Sector Joint Venture (services outsourced to a company jointly owned and operated by a private contractor and Barnet Council).
2. Status Quo Plus (service retained in-house with a ‘change programme’).
3. Incremental Partnership (phased outsourcing depending on performance of private contractor).
4. Shared Services (joint delivery of services by one or more local authorities).
5. Consulting Led (in-house provision with appointment of ‘consulting partner’ to increase management capacity).
6. Local Authority Trading Arm (services transferred to a separate company, wholly or partly owned by the Council).
7. Strategic Partnership (services outsourced to a private contractor in Strategic Service-delivery Partnership (SSP) contract.
8. Management Buy Out (existing Council managers set up company to either buy or bid for the services). (London Borough of Barnet, 2010b)

Commercial confidentiality

The full version of the Options Appraisal is ‘commercially confidential’ and only a ‘public’ version has been made available to staff and trade unions. Whilst a case might be made for withholding some analysis or information concerning the conclusions of the soft market testing, the Council has given no reason why they have imposed ‘commercial confidentiality’ nor explained what content has been withheld. This makes detailed scrutiny impossible and is a barrier to full engagement of other interested parties. It has important ramifications for industrial relations in Barnet.

Objectives of this report

The prime objective of this report is to provide a detailed assessment of the Options Appraisal of Development and Public Health services and to identify the potential impacts and risks for service users, citizens, Council staff and Barnet Council.

Methodology

The analysis of the DPH Options Appraisal was undertaken by Professor Dexter Whitfield, in co-operation with Barnet UNISON branch officers, together with shop stewards in the relevant services.

Page references

The page references used in this report refer to the relevant page in the public version of the Development & Public Health Services Options Appraisal.

Part 2:
Assessment of the Options Appraisal

Introduction

This analysis of the Options Appraisal is divided into three sections:

- Omissions from the appraisal
- The selection of options
- Quality of the Options Appraisal
- Evaluation of options

Omissions from the appraisal

One Barnet objectives sidestepped

The Cabinet report on Future Shape (renamed One Barnet) in July 2009 adopted three aims for the programme:

- A new relationship for citizens;
- A one public sector approach;
- A relentless drive for efficiency (London Borough of Barnet, 2009).

The Options Appraisal does little to contribute to ‘a new relationship with citizens’ because citizens were not involved in the Options Appraisal and although the report makes reference to a ‘citizen-centric service’, this is not substantiated in any shape or form. It remains a rhetorical statement – see further discussion below.

The appraisal is exclusively focused on Barnet local government and appears to ignore the Council’s One Barnet programme; in fact there is no reference to the One Barnet programme in the options report.

The Options Appraisal addresses only one of the One Barnet objectives - efficiency.

Corporate priorities

The 2010/13 Corporate Plan identified three corporate priorities - better services with less money; sharing opportunities, sharing responsibilities; and a successful London suburb. The report does not consider the impact of the different options on the local economy and the successful London suburb strategy in particular.

It also veers between undertaking a benchmarking study and carrying out an appraisal of the potential options for the future delivery of DPH services. It fails to qualify either as a rigorous options appraisal or a benchmarking study.

Limited selection of options

No effective in-house option

The Options Appraisal does not assess the potential scope of a realistic and sustainable in-house option, despite staff being repeatedly reassured at staff briefing sessions that it was the Councils intention to consider in-house options.

Instead, the consultants use a Status Quo Plus option. This option is not described in detail but the first line of commentary asserts - *"This option is not likely to lead to a step change improvement in costs or service levels as it is primarily based on current operations"* (page 21). It also claims that *"retention of the services in-house acts as a hamstring for commercialisation and income growth"* (page 4).

The appraisal later describes the 'Status Quo Plus' model as *"…requires the necessary skills, knowledge, financial resources and capacity to deliver a major change programme"* (page 74). All options require this approach. An in-house option without built-in improvement and innovation is meaningless.

The concept of a 'Status Quo Plus' option (a contradiction in terms) was designed to fail and is not a credible option.

Furthermore, the Council cannot ensure that it will achieve value for money because it has not examined all the potential options.

Management Buy-Out option is a diversion

There has been virtually no discussion with staff about the Management Buy-out Option (MBO) – this option is not sustainable unless management have the support of staff. We believe this option was planned as a diversion from preparing an effective in-house option. It is therefore a red herring and was never a sustainable option for DPH services.

The DPH Options Appraisal makes two statements on MBOs that indicate a lack of understanding about the economics and track record of MBOs.

Firstly, *"This is a common model within private sector organisations but is a relatively new concept within local authorities"* (page 79) and *…" there is little public sector precedent on which to base an assessment"* (page 24).

Secondly, *"the management buy-out option within local government services is an innovative model that has the capacity to generate high levels of savings"* (page 24).

These statements are contradictory. No empirical evidence is supplied or referenced to support these statements. The Options Appraisal is also silent on how a MBO would attract finance from banks in the current economic conditions.

Management Buy-Outs in local government or the public sector generally are not innovative. They have been tried before. There were a significant number of public sector MBOs in the 1980-1990s. However, the majority of MBOs failed to expand and most were acquired by private contractors. MBOs in the public sector have since rapidly declined. The number and value of management buy-outs from government, local authority or other public sector bodies have constituted a tiny fraction of management buy-outs in the last decade. Table 1 shows that the highest percentage in the number of buy-outs was 0.4% in 2003. The privatisation deals by value between 2000-2009 were zero except for 0.1%, 0.7% and 0.3% in 2003, 2005 and 2007 respectively (referenced in Barnet UNISON Briefing, 2010).

Two other trends are apparent. Firstly, the flow of MBO deals has slowed dramatically in 2009 primarily because of the global economic crisis and recession. Secondly, the number of buyouts from failed companies soared from 4.2% in 2000 to 31.8% (18.8% by value) in the first half of 2009.

The claim that this option has the capacity to generate a high level of savings is not substantiated.

The Options Appraisal makes reference to an MBO being *"theoretically possible to include as a participant within a strategic partnership procurement, there are risks of market distortion associated with this option"* (page 4). Every procurement process must ensure that all potential and actual bidders are treated equitably. An in-house bid or MBO would require vigilance but there is no reason to believe this would be difficult or involve additional costs.

Quality of the Options Appraisal

Superficial analysis

The report contains many sweeping assumptions that are not supported by facts, empirical evidence or case study experience.

The statements and claims made in the Options Appraisal are not adequately supported by evidence, which together with the many inaccuracies, means that many of the conclusions are unsubstantiated. The description of the options (pages 21-24) is particularly lacking in knowledge and understanding of public services.

The consultants demonstrate a lack of understanding of the performance, policy issues and risks of strategic partnership contracts. The only reference to commercial experience is the percentage shares in four local authority joint ventures (page 74). Although a soft market test has been carried out, the report indicates a very basic understanding of the outsourcing market, in particular Strategic Service-delivery Partnerships (SSPs) – long-term multi-service contracts with private contractors.

The report claims the appraisal looked at "*whether some or all of the services could be improved (and costs reduced) by finding alternative provision in the marketplace"* (page 3). However, the report does not address how services could be improved. There is no genuine attempt to examine the potential for innovation and cost savings from in-house provision.

Staff in Development and Public Health services have raised many questions concerning the accuracy of the benchmarking data – these are discussed in Part 3.

Lack of evidence base

The list of references in the appraisal consists almost entirely of Council reports and benchmarking data, plus a few references to CIPFA and HSE benchmarking information (page 63). This conceals the absence of empirical evidence of strategic partnership contracts available from the Audit Commission, local authorities and public sector research organisations.

Limited benchmarking with major caveats

The Options Appraisal concedes that there are significant qualifications to the benchmarking of the Development and Public Health services. The consultants' "…*approach does not take into account the relative service levels in the comparator authorities"* (page 9). Furthermore, the note at the bottom of page 10 adds further qualifications - *"The comparability of the CIPFA cost data for Planning and Development and Building Control is known to be particularly weak"* (page 10). The comments on Building control expenditure (also on page 10) and the separate staff criticisms of benchmarking included in Part 3 of this report, indicate that drawing conclusions from benchmarking must be highly qualified.

The consultants commit the classic benchmarking mistake of recording in a footnote an acknowledgment of the poor quality of the benchmarking data, but they then proceed to use it as if the qualification was not relevant.

Funding future investment in services

The Status Quo Plus option description concludes with the statement *"investment would be needed to generate a convincing plan"* (page 21).

All options will require longer-term investment. The Options Appraisal recommends a Strategic Service-delivery Partnership (SSP) with the private sector. SSPs are long-term (10-15 years) multi-service contracts. Staff transfer to a private contractor or can be transferred or seconded to a joint venture company. Investment in strategic partnership contracts is entirely funded by local authorities through monthly contract payments. 'Private investment' in this context is a myth. In a few cases, private contractors have front-loaded investment which has been financed by increased payments by the local authority later in the contract. There is no evidence that private firms fund public sector investment in strategic partnership contracts (based on the authors experience of SSP procurement in many local authorities and research). Furthermore, *"even in continuing SSPs, purported benefits from economies of scale and transferred learning between sites have been slow to emerge"* (Audit Commission, 2008).

Income generation forecasts omitted

The report highlights the importance of current fee income in the budgets of Development & Public Health services. Whilst the Options Appraisal assesses historic levels of fee income it has very limited information on forecasts of fee income and third party income generation. It does not address the threats and opportunities likely to be encountered in increasing fee and/or third party income. This should be a core part of the options appraisal.

The section on 'prospects for revenue growth' (page 10) uses historic budget information and does not examine this important issue.

Furthermore, if income generation is anticipated from private sector work in case preparation, then the Council must address a number of risk, governance and public interest issues arising from a gatekeeper role.

Developing third party business

"Joint ventures are best suited to situations where there is significant potential and appetite to develop third party business" (page 21). This statement is challenged on two grounds. Firstly, SSP contracts have failed to achieve third party income and job creation targets. Only one contract, Blackburn, achieved a medium term employment target and this was achieved by relocating the BBC television licence contract from Bristol. Secondly, there is no empirical evidence that JVCs are more effective than other organisational models in expanding third party business.

"There is very significant potential to grow income but only with the appropriate commercial/business strategy and capability" (page 15). It is not adequate to talk about 'significant potential' without identifying what, where and how the growth income can be achieved.

The appraisal should have indentified the key areas for income growth and the strength and weakness of each option in achieving income growth. The assumption that this can only be achieved by a 'commercial/business strategy' takes no recognition of the already significant revenue obtained by these services. It also fails to report on the track record of existing Strategic Service-delivery Partnerships, which have a poor record in increasing third party income generation and job creation (Whitfield, 2008).

Exclusive focus on interests of market, not Barnet citizen and business needs

The report makes a number of statements that indicate the consultants have prioritised meeting the needs of the outsourcing market and have placed the needs of Barnet citizens and businesses lower down the list of priorities. The statements include:

> *"…additional market attractiveness"* (page 28)
>
> *"the relative immaturity of the market in these services"* (page 18)
>
> *"the services are relatively new to market (there are perhaps only three strong comparator partnerships in existence)"* (page 18)
>
> *"A larger bundle of services would certainly strengthen market interest"* (page 18).

At no point does the Options Appraisal refer to the views of local community organisations and Barnet residents concerning the Options Appraisal or the scope of the services to be included in the bundle.

'Integrated citizen-centric service' concept undeveloped

The report makes two references to *"the options appraisal has identified an embryonic vision of environmental regulation and design as an integrated, citizen-centric service"* and *"the Options Appraisal has identified an embryonic vision based on joined-up environmental regulation, design and management*" (pages 5 and 27).

The public report did no such thing. It may of course be 'commercially confidential'. There is no evidence that citizens have been consulted on this matter and Council staff have not been consulted nor have they participated in the Options Appraisal. The project manager has since confirmed to staff that no staff below Head of Service were consulted in the appraisal.

Options appraisals cannot assess undefined 'embryonic visions' or rhetorical statements.

Failure to assess equality matters

The Options Appraisal is devoid of any consideration of equality issues for service users, citizens or for staff. The appraisal has been carried out on the basis that equality legislation and public policy issues are not relevant. It may be that the consultants are unaware of these matters or believe they are not relevant to options appraisal.

Failure to examine employment implications

The Options Appraisal provides a crude staffing figure for each section but most are stated as Full Time Equivalents. They do not reflect current staffing levels because they were obtained from the budget. The consultants could not supply the actual number of current staff and basic information about gender, race or age. The 'citizens and stakeholders' section of the assessment of options is bereft of any comment about how staff will be affected by outsourcing and privatisation. Perhaps this information is also classified as 'commercially confidential' and only available in the full version of the Options Appraisal. Over 200 staff are affected by the Options Appraisal (about 300 if additional services are added to the bundle) and their anxiety and fears have been greatly increased by the lack of concern for their interests or even an understanding of who they are.

The Council's earlier Project Initiation Document did not estimate the overall number of staff affected and made no reference to staff and employment in the project goals and objectives and the critical success factors.

The report boldly states *"…it is also very clear that the services require a fresh injection of intellectual capital, investment, commercial skills, tools and business models to take the next steps in transformation"* (page 4). This is an inaccurate portrayal of the skills and experience of staff in high performing services. The consultants/Council did not define the transformation objectives and the appraisal itself is of poor quality. The benchmarking information showed that the services were high performing-low cost services. The same page of the Options Appraisal refers to *"…the relative immaturity of the bundle"* which is an obscure way of saying that there are few examples of these services being outsourced and thus the private sector has very limited experience in their delivery.

Table 1: **Development and Public Health Services staffing levels**

Service	Full Time Equivalents	Estimated No. of jobs
Building Control	n/a	21
Planning & Development	56.72	68
Land Charges	3.0	4
Environmental Health	66.64	80
Trading Standards	5.0*	6
Registrations	11.0	13
Cemeteries and Mortuary Services	11.16	13
Total		**205**

Source: Development and Public Health Services Options Appraisal, 2010.

*12 FTE quoted in appraisal but staff report that currently 5FTE

The Options Appraisal does not indicate the staffing levels in Highways, Regeneration and Transport Planning, which are estimated to total about 75 staff.

Governance issues not addressed

The appraisal fails to examine the governance and management of outsourced contracts, the establishment of Joint Venture Companies, trading or shared services projects. It continues a silo mentality because it does not address the potential scenario of Development and Public Health Services being only one of a cluster of strategic partnership contracts in Barnet. This situation would raise significantly new and complex governance, financing and management issues for the Council.

Neither does the appraisal address the government's emphasis on 'localism' and 'engagement' and improving democratic accountability and transparency.

Failure to consider planned changes

The Options Appraisal fails to recognise that the planning system is to shortly undergo major reforms following the publication of the Open Source Planning green paper by the Coalition Government. The shift in power to local communities, changes to the development plan making-process and to the determination of planning applications is likely have a major impact on planning income and staffing resources. The cost forecasts in the Options Appraisal are therefore highly questionable. Research into long-term contracts revealed that *"some SSPs have proved inflexible, hindering councils' ability to respond to changing external circumstances"* (Audit Commission, 2008).

Client and contract management

The consultants *"…believe there should be a 'thin' retained place shaping function at Barnet's commissioning core"* (page 5). A ten-year *"retained client cost"* is forecast to be £7m (page 16) but without any supporting analysis this figure should be treated simply as a guess-estimate. No attempt has been made to identify the different levels of contract management and monitoring costs associated with each option.

The concept of a 'thin' client is not new. Local authorities in general, and particularly strategic partnership contracts, have initially significantly under-estimated contract management and monitoring costs (Audit Commission, 2008). Low estimates of contract management costs help to inflate savings forecasts, but in practice, are illusory.

Inclusion of additional services

The consultants *"indicatively…suggest"* that the following services are *"considered"* for inclusion within the scope of the contract:

- Highway Network Management (in whole or part)
- Regeneration
- Transport Planning
- Highway Design
- Highway Development
- Highways Planning and Safety

The consultants recognise that *"this will require further analysis to determine which services fulfil the built environmental management, regulation and design criteria"* (page 5). This raises a number of questions"

The consultants also *"propose the inclusion of Strategic Planning and Regeneration within the bundle"* because they have a *"strong connection with the other services in scope"* (page 5).

The language is deliberately tentative and uncertain because the consultants indicate that they are not confident of their recommendations and are hedging their professional position in case there is a Judicial Review and/or contractual disputes later in the process.

No rationale for the inclusion of Highway-based services has been given and no obvious significant associated risks have been identified, notably the ability of the Council to discharge its statutory duties under the Traffic Management Act 2004. See section on 'fast tracking a Business Case' below.

Very Soft Market Test

It is unclear from the appraisal precisely which services formed the basis of the soft market test. It appears that the response of private contractors was the only criteria used to include or exclude services from the scope of the project.

Outsourcing option for Hendon Cemetery and Crematoria does not provide value for money

The Development and Public Health Services Options Appraisal recommends that Mortuary Services should be removed from the cluster of services but Cemeteries and Crematoria retained.

The Cabinet decision in April 2009 to abandon the Capita options appraisal – a failed Future Shape 'quick-win' - and to examine all options including an in-house option, has still not been concluded after 18 months. This is despite overwhelming evidence that the in-house option provided significantly better value for money compared with the other options.

This Options Appraisal included a soft market test and evaluated seven options - no investment in the crematorium, in-house with £2m investment and £70K capital funding sink fund, outsource get half of gross profits, 8% turnover/initial capital investment, lease, outright sale and a shared services project with two London Boroughs. The in-house investment option was considered to be the best value option by a significant margin. Elected Members should consider this Options Appraisal in detail as a matter of urgency.

To now include Hendon Cemetery and Crematoria in the Development and Public Services procurement for a strategic partnership contract raises critical issues about value for money.

The firms likely to bid for the Development and Public Health Services contracts (for example, Capita and Mouchel) do not operate cemeteries and crematoria. This service is almost certain to be subcontracted, probably to one of the firms that took part in the soft market test as part of the Cemeteries and Crematoria options appraisal, despite the outsourcing option being rejected because it did not provide value for money. The main contractor will be expected to make a profit in subcontracting, further eroding the Council's income.

This situation raises fundamental value for money and fiduciary responsibilities of elected Members. This is an important revenue stream for the Council, which could be significantly reduced if it is outsourced or transferred.

Dangers of fast-tracking a Business Case

The report recommends *"the business case is drafted quickly and in place no later than the end of September 2010. Concurrent with the drafting of the business case we propose a procurement is initiated using Competitive Dialogue which helps mitigate risk, generate innovation and maintains competitive commercial pressures"* (page 5).

But another part of the report consultants' states:

> *"We do not believe a major business case process and document is needed given the Options Appraisal makes a clear case for action. Rather, there should be two main aspects of the business case work to be completed namely:*
>
> - *Further financial analysis to verify the high level analysis performed in the options appraisal.*
> - *Further work to define the service transformation objectives"* (page 32).

There are a number of issues arising from these statements.

1. This Options Appraisal does NOT make a clear case for action.
2. The current 'high level' appraisal does not meet the basic quality procurement standards established by the Office of Government Commerce, Local Partnerships and the Department for Communities and Local Government that are necessary to underpin a £100m - £200m contract.
3. The Council has not carried out an options appraisal for the services that should be 'considered' for inclusion in the project.
4. The two tasks noted above should have been an integral part of the Options Appraisal. It is surprising that an options appraisal is undertaken without defining the service transformation objectives.
5. A full and comprehensive options appraisal must be completed before a Business Case can be concluded. This should be a pre-requisite to the commencement of a formal procurement process, should the Council embark on that course of action.
6. The Business Case must forecast potential trading and income forecasts (there is virtually no information in the Options Appraisal).
7. Given the *"relative immaturity of the bundle"* a Competitive Dialogue procurement process may not be the most appropriate procurement process for these services.

Evaluation of options

Simplistic evaluation of options

The evaluation matrix comprises five weighted criteria (see Table 2):

> *Price (30%) – "The potential to reduce delivery costs (in the short-term). The ability to generate enhanced or new income streams in the medium term. The avoidance of significant investment by LBB to meet short or medium term price benefits."*
>
> *Flexibility and risk (10%) "The potential to adapt within reason any contract or arrangement without undue cost for LBB. Also the ability of the council to transfer risk effectively."*

Performance (30%) "The potential to increase performance by transforming service delivery and introducing innovations to the services."

Citizens and stakeholders (20%) "The potential to improve the citizen experience and satisfaction levels by transforming service delivery and introducing innovations to the services."

Pace (10%) "Potential for timely implementation and rapid benefits realisation."

The definition of the criteria is vague and the assessment relies heavily on assumptions rather than evidence. For example, the scoring of the options under the 'citizens and stakeholders' heading assumes that a strategic or incremental partnership will "improve the citizen experience and satisfaction levels by transforming service delivery and introducing innovations to the services" – on what basis were these scores attributed? No empirical evidence is supplied to justify this decision. Nor are sources supplied to support the scoring of 'performance'.

The evaluation criteria do not take account of the following key issues:

- Investment
- Equalities
- Transformation
- Fee and third party income
- Employment impacts
- Corporate impact on the Council

The report contains little or no information to underpin the allocation of scores for 'price'. The report stresses the opportunities available to increase third party income yet this is not in the evaluation criteria.

Flawed scoring

Scoring of options for 'flexibility and risk' does not appear to reflect the actual risks and degree of flexibility, which the Council will experience in the implementation of each of the options. The strategic partnership contract 'flexibility and risk' score is 5 times higher than the score for the shared services option.

The consultants have ignored the high termination/major problem rate of Strategic Service-delivery Partnerships or they are unaware of this evidence (see Part 4). The performance of strategic partnerships is also a problem for the private sector – *"private sector experience suggests that 60 to 70 per cent of strategic partnership arrangements between companies fail, and few meet expectations"* (Audit Commission, 2008).

Observations on the evaluation matrix scores:

- It is absurd that Shared Services options scores less than the Status Quo Plus option and has the lowest score for all the criteria.
- The low score of 1 for 'flexibility & risk' and 'pace' for the Shared Services option are not substantiated.
- A strategic partnership scores 5 for flexibility and risk yet there is currently a 17.5% failure with SSPs and a 10-15 year contract results in significantly less flexibility than other options that received much lower scores.

- The MBO has a score of 4 for 'price', the same score as the strategic and incremental partnership options, but this is highly questionable and not susbstantiated.
- More realistic scoring changes the weighted totals and demonstrates the superficiality of the assessment of options. For example, more positive scoring of an in-house option coupled with a more realistic evidence-based assessment of a strategic partnership would reverse the outcome with an in-house option having the highest weighted total.

Table 2: **DPH options scoring matrix**

	Price (30%)		Flexibility & Risk (10%)		Performance (30%)		Citizens & stakeholders (20%)		Pace (10%)		Weighted Total
	Score	Weighted score	Score	Weighted score	Score	Weighted score	Score	Weighted score	Score	Weighted score	
Private Sector Joint Venture	3	0.9	4	0.4	3	0.9	3	0.6	2	0.2	3
Status Quo Plus	2	0.6	2	0.2	2	0.6	3	0.6	3	0.3	2.3
Incremental Partnership	4	1.2	3	0.3	3	0.9	4	0.8	2	0.2	3.4
Shared Services	2	0.6	1	0.1	2	0.6	3	0.6	1	0.1	2
Consulting Led	3	0.9	2	0.2	3	0.9	3	0.6	3	0.3	2.9
LA Private Trading Arm	3	0.9	2	0.2	2	0.6	3	0.6	3	0.3	2.6
Strategic Partnership	4	1.2	5	0.5	3	0.9	4	0.8	2	0.2	3.6
Management Buy Out	4	1.2	3	0.3	2	0.6	3	0.6	2	0.2	2.9

Source: Development and Public Health Services Options Appraisal, 2010.

The scoring matrix used to evaluate the options lacks credibility because no evidence has been supplied to support the application of the criteria and the scoring. Another set of assumptions would give a completely different conclusion.

Smaller savings

The services are described as *"reasonably high performing and reasonably low cost. However, there are opportunities for both cost reduction and income growth. Taken together, the savings and extra income could achieve a financial benefit of 15% - 20%"* (page 3). They claim a saving of "up to £2.5m a year" or £25m over ten years. But the table on page 16 of the report shows that this level of savings does not exist once the cost of the retained client function and the cost of procurement, estimated to be a total of £9m, are taken into account. Calculating the savings only on the cost of the outsourced services is deceptive and misleading.

So the actual overall level of savings forecast for all the DPH services is between 10% - 13%. This assumes that the cost of the client function and the cost of procurement have been fully costed and are not simply estimates. We noted above that these costs are frequently understated resulting in increased costs and lower savings for local authorities.

Audit Commission research of strategic partnership contracts revealed 'anticipated savings' of between 1.0% and 15.4% with a mean of 8.3% (% of contract value). Note the description of 'anticipated' savings, in other words they were forecasts and had not been achieved. The subsequent significant decline in the level of savings in SSPs in other local authorities will almost certainly mean that the actual level of savings will be substantially below those claimed in the Options Appraisal (see Part 4).

The estimation of potential savings appears to be based on rough estimates and assumptions. The Council would be unwise to make decisions based on these figures.

No sensitivity analysis

The terms of reference for the Development and Public Health Services Options Appraisal included undertaking a sensitivity analysis from Impower as part of the £67,000 cost (London Borough of Barnet, 2010c). A sensitivity analysis is important because it assesses the results of the options appraisal to changes in demand, performance, savings, the level of risks and so on. For example, how are the overall conclusions affected by assuming a higher level of performance in different options, lower or higher savings, or a higher level of demand for services.

The sensitivity analysis may be deemed 'commercially confidential' but elected Members and Barnet citizens need to understand and be assured that the best option is chosen for the future of the Council's Development and Public Health Services.

One Barnet Audit

Auditors Grant Thornton recently carried out a value for money assessment of how the One Barnet programme supports the achievement of the Council's priorities, current programme management and governance arrangements (Grant Thornton, 2010). They concluded that there is no formal programme mandate document, the programme vision and the organisational blueprint need to be aligned, and the quantitative and qualitative costs and benefits need to be identified (Audit para 3.2).

The Audit concluded that *"risk management needed to improve to support the Future Shape agenda, and minimise organisational risk".* It also identified *"a lack of understanding of what the purpose of risk management arrangements were, and a lack of examples of positive outcomes"* (Audit para 5.2).

"…..the Council needs to embed more deeply a wider understanding of the identification, mitigation and management of risks. A number of recent reports on risk management to the Audit Committee have illustrated that further work is still needed to embed appropriate approaches for individual programmes" (Audit para 1.3).

The serious omissions from the DPH Options Appraisal coupled with the lack of understanding of the recommended option indicates that the Council is not heeding the advice and recommendations of the Audit.

Part 3:
Additional key issues

This chapter contains further comments on benchmarking and other aspects of Options Appraisal.

Planning

The proposed inclusion of Strategic Planning and Regeneration in the bundle has not been justified. No account has been taken of the implications of the localism agenda or the transition from the Local Development Framework to the single plan approach, fundamental to the way the planning process will operate.

The bundling of services has been dominated by the consultants' views on what the 'market' requires, not by the needs of Barnet citizens, businesses and the integration of services. Nor have the implications of how the Council exercises its statutory duties, for example, between strategic planning and regeneration in the development and processing of planning applications.

Building Control

The Options Appraisal states "Barnet ranks second in terms of lowest expenditure and £'Head. Furthermore, Barnet is ranked in the lower quartile (26 out of 31) Inner and Outer London Authorities for expenditure" (page 35). Yet the CIPFA cost benchmarking table (page 9) identifies Building Control as expensive on the basis that a 79% saving or £671,976 could be saved if it was the lowest cost service. If "CIPFA benchmarks are only useful as a general indicator" (page 9) then there is no justification whatsoever for using the data in the way it has been used in this report.

Trading standards

The report does not provide any full analysis of the functions carried out by Trading Standards and Licensing or any real comparison with other London boroughs.

There are also a number of unsubstantiated statements, for example page 10, "a good potential for financial savings in some areas". The report should have identified the specific areas in which financial savings could be achieved and the justification for reaching that conclusion.

It is evident that Impower are not aware of the functions carried out by the team as there are inaccuracies in the simple overview on page 51, for example:

- The descriptions and responsibilities of the Trading Standards and Licensing teams;
- The Trading Standards Team is the smallest in London but Impower did not benchmark with other London Boroughs;
- The Licensing Team is not supported by the Environment Team but by one FTE officer who is part of the Directorate's Administrative Team;
- The Licensing Team is also responsible for the Safety Certificate at Barnet Football Club (a significant and time consuming function which does not provide any income through a fee or other source);

- Gross expenditure has been taken from 2009-2010 budget figures and not projected figures for 2010-2011 (this was based on 12 FTE – there are currently 5 FTE). Therefore the gross and net expenditure will be significantly different.
- The service expenditure (pages 52 and 53) is based on 2009-2010 CIPFA returns which is totally inaccurate when combined with 2010-2011 income figures;
- No mention is made of the fact that the licensing budget is ring-fenced to the particular licence type therefore Licensing Act fees can only be used for the administration and enforcement of Licensing Act functions and so on. This is particularly important because the Trading Standards budget is zero (page 52). Thus Trading Standards functions are being funded from ring-fenced licensing fees;

The report refers to "the current fluid benefits". It is unfortunate that a more in depth analysis of income and expenditure and the team structure was not conducted as this could have been explored further in order to reach a justified conclusion. The option of a merger with an adjoining Borough, such as the Brent and Harrow Trading Standards Service, should have been explored.

Environmental Health

Several inaccuracies in comparative costs have been identified, for example:

- Health and Safety was merged with Scientific services in 2008-9 and the cost estimate is about £200,000 more than it should be.
- Public health costs include the out-of-hours noise team and it appears that some Boroughs that have more expensive out of hours noise team costs have not been included (page 50).
- Secondly the £435,000 cost for Public health noise and nuisance has been cut over the last two years to £347,580 in 2010-11, which is significantly less.

Part 4:

Performance of Strategic Service-delivery Partnerships

Eleven local authorities reached various stages of procurement for a SSP but decided to retain in-house provision and undertake innovation and change management. Newcastle City Council submitted an in-house bid and retained in-house provision on value for money, innovation and employment grounds. It has since achieved significant savings and improved service performance (see Part 5).

Recent developments in SSPs

Local authorities with SSPs have reported significant changes in contracts and operational problems. Experience in five local authorities is summarised below.

Liverpool City Council

A detailed value for money review of Liverpool Direct Limited (LDL), the joint venture Strategic Service-delivery Partnership between the City Council and BT that commenced in 2001, revealed that the Council was overcharged by £19m over the last nine years. 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).

Somerset County Council

Southwest One has 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).

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.

Middlesbrough Council

Accountancy, property services, enterprise centres, facilities management, leisure business development and procurement and 130 staff are returning in-house in June 2011. The Council has negotiated a £1m reduction in the contract price in 2010/11 as part of a contract extension (Middlesbrough Council, 2010)

The SSP 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 who currently employs about 600 staff.

Swindon Council

Swindon BC outsourced ICT and corporate services to Capita Group in February 2007. An Internal Audit last year 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."*

It also identified *"….significant wider contractual obligations in the service output specifications that must also be delivered by Capita. There is not a consistent method of monitoring whether the partner is delivering these wider obligations.*

"…in some areas, the client is spending time carrying out activities that should be managed by Capita."

"...there is currently little validation of KPIs reported by the partner"

"…the speed of additional transformational activity generated through the Partnership has not been at the anticipated pace. Only five business cases submitted by Capita have been formally approved in the two years the Partnership has been operating." (Swindon BC. 2010)

Planning and regeneration contract abandoned

Few local authorities have outsourced Development and Public Health Services. North East Lincolnshire Council is one of the few local authorities that commenced procurement but did not conclude the procurement process because the Cabinet decided that a mutual commercial agreement could not be reached.

The Council reached the preferred bidder stage in procurement of a strategic partnership for planning and development control, regeneration, property, highways, traffic and transportation to commence in late 2007. The Council Leader stated the contract had to be delivered without adding a penny to council tax and this could not be guaranteed.

Contract terminations and significant contract reductions

Five Strategic Service-delivery Partnership contracts have either been terminated or a significant of the work returned to in-house provision thus truncating the scope of the contract (see Table 3).

This track record is part of 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. Total value of contracts was £29.5bn but 57% of contracts experienced an average cost overrun of 30.5%, major delays in 33% of contracts and 30% of contracts were terminated (European Services Strategy Unit, 2007).

Table 3: **Terminated and reduced SSP contracts**

Authority	Contractor	Reasons for termination
Bedfordshire County Council	HBS Business Services	Terminated contract in 2005 four years into a 12-year contract after failure to achieve key deliverables and poor performance. Services and over 500 staff returned to in-house provision.
West Berkshire Council	Amey plc	Terminated 10-year contract with Amey Group in 2005 after three years because of poor performance.
Redcar & Cleveland Council	Liberata	Following a 'strategic review of services' HR and Payroll, Finance and Accounting, ICT, Public Access and Business support brought back in-house in September 2006 after only 3 years of the 10-year Liberata contract.
Swansea City Council	Capgemini	£83m ICT contract with Capgemini. Phase 1 savings reduced from £26m to £6m and Phase 2 abandoned.
Essex County Council	BT	The 10-year contract commenced 2002 but in January 2009 the Council served BT with a notice of material breach of contract. A spokeswoman for the council said: “We decided it wasn’t value for money and we weren’t getting the level of service we required, so we decided to terminate the contract.” (Financial Times)

Source: European Services Strategy Unit, PPP Database, 2009.

The termination and significant reduction of five SSP contracts, major issues and/or changes in five other projects and eleven local authorities rejecting an SSP in the procurement process indicates this is a high-risk strategy. An assessment of the track record of SSPs should have been an integral part of the Development and Public Health Services Options Appraisal. This information is publicly available and it is in the public interest of Barnet citizens that it is taken into account in all options appraisals. It is quite separate from a soft market test, so there is no reason for it being classified ‘commercially confidential’.

Part 5:
Alternative approaches

Achieving the One Barnet objectives

The three One Barnet objectives of a new relationship for citizens, a one public sector approach and a relentless drive for efficiency are not dependent on outsourcing services. In fact the Council could more rapidly achieve these objectives by taking a different course of action.

Innovation and LEAN systems

Barnet Council has an opportunity to refocus One Barnet by concentrating on how it can harness and value the skills and experience of its staff and engage them in a process that fundamentally challenges the way in which services are delivered. The agenda could include:

- New methods of service delivery
- Operational and organisational efficiencies
- Service integration
- Joint delivery and shared services opportunities
- Income generation
- Benchmarking using verifiable and audited performance information

The trade unions are convinced that a genuine collaborative project would achieve significant service improvements,

Examples of the alternative approach

Newcastle City Council

In the last four years Newcastle City Council has delivered £84.8m savings through its transformation programme at the same time as improving performance and keeping the level of council tax low. The current reform programme originated in retaining in-house provision of ICT and corporate services following a procurement process. The in-house bid had significant financial and operational advantages compared to a BT bid. Instead of outsourcing, the Council established the City Service organisation to undertake transformation. This has been highly successful and achieved £28.5m savings by 2008.

The Council launched a two-year Service Transformation and Efficiency Programme (STEP) in autumn 2010 that *"will take a fundamental look at all the services we provide, and find new and innovative ways to deliver quality services in a more cost effective way"* (Newcastle City Council, 2010). Project teams will look at the purpose of the service, current delivery methods, outcomes achieved with a challenge process to identify whether the service can be delivered in a better and more cost effective way.

Each in-house project team of managers and staff is led by a Head of Service, supported by a Corporate Programme Office. All projects report to the Senior

Leadership Team. Findings are fed into the budget process and to relevant Overview and Scrutiny Committees ensuring elected Members are fully involved in the process.

Staff and trade unions are fully involved in STEP. The City Council has stated *"The Council knows that it cannot continue to adapt to change without involving and engaging employees, and there is much the organisation can learn from experience in providing services to the public."*

"We are committed to working with the trade unions…" and has established staff and trade union involvement in STEP to ensure *"…we can work together constructively and collaboratively throughout the process."*

"Throughout this process we are committed to investing in our staff – helping to ensure that employees are equipped with the skills and knowledge they need to be an important part of the council's future. As each STEP project develops we will be considering how changes in the way we do things in the future will lead to a need for new skills and knowledge amongst our employees. We will build this into our corporate learning and development plan, and work with individuals to help them acquire the learning they need to keep pace with changes in services" (Newcastle City Council, 2010).

London Borough of Ealing

A four-year Highway Services contract with Mouchel is due to expire in March 2011 and the Council recently completed a comprehensive review of the service in order to identify the potential opportunities for efficiencies and cost savings. The review focused on how improvements could be achieved in service quality, cost and customer satisfaction and on what opportunities existed for considering alternative service delivery models in the future.

A cost/benefit analysis indicates that taking the outsourced work back in-house *"will generate an overall gross saving to the Council of approx £900,000 per year from 2012 rising to £934K in 2014/15. The savings arise purely from being able to deliver the same or better level of service with less staff and not having to pay a profit mark up"* (London Borough of Ealing, 2010). A recent cost appraisal envisages savings in excess of £1m per annum.

The Cabinet agreed to in-source the service. Staff will transfer back to the Council in March into a new staffing structure with 60 posts.

Other services brought in-house

London Borough of Ealing

Earlier this year the Council agreed to draw up proposals for the return of Housing Services, currently delivered by Ealing Homes, to direct management by the Council from 31 March 2011. A postal survey tenants showed 61% support with 59% of tenants voting for transfer back to the Council in a telephone survey.

London Borough of Hillingdon to return council housing service in-house

The Council believes that it is in the council's and tenants' best interests to take the service back into the council. This will enable savings to be made by eliminating the cost of governance of the ALMO and further improve services.

Slough BC plans to close ALMO

The Council voted to close its 7,500-home ALMO and bring the services back in-house in January 2010, pending consultation with tenants.

Part 6:
Conclusion and recommendations

Conclusion

The Development and Public Health Options Appraisal is neither an adequate options appraisal to ensure the Council achieves value for money nor is it a comprehensive benchmarking study. It does not provide sufficient analysis and information for the Council to be confident that it has selected the best option. Preparing a business case in these circumstances could result in the local authority being challenged on due process and value for money grounds.

The Council should be aware that at no stage have the consultants confirmed that the recommended option will maximise value for money or provide a sustainable viable option.

The appraisal process has been rushed in an attempt to start the formal procurement process at the earliest opportunity. **But this is a high-risk strategy that runs the risk of the Council starting a complex procurement that is ill prepared.**

Recommendations

The London Borough of Barnet should agree to:

1. **Delay the commencement of the formal procurement process – the Development and Public Health Services Options Appraisal requires significant further investigation and analysis.**
2. **The Council should develop the Options Appraisal with a properly designed in-house option that draws on innovation, improvement, new delivery methods and service integration; draw on the skills and experience of staff, and engage with trade unions, local community organisations and Barnet citizens.**
3. **An options appraisal should be carried out for the services added to the bundle - Regeneration, Transport Planning and Highways – to ensure that value for money and sustainability of these services is fully addressed.**
4. **The evaluation framework should be re-designed to provide an evidenced, more comprehensive and rigorous assessment of the cost and benefits of each option.**
5. **Staff and trade unions should be involved in the options appraisal and transformation process. This should be based on genuine engagement and not limited to briefing about the appraisal recommendations.**
6. **The Council should disclose what information has been withheld from the public version of the options appraisal and give reasons for why this information was withheld.**

7. **The Business Case should be subjected to a Gateway Review (a peer review of how the process achieves the objectives) prior to commencement of a formal procurement process.**
8. **The One Barnet Overview and Scrutiny Panel should examine the options appraisal methodology and Business Case before a further report is submitted to Cabinet.**

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