



London Borough of Barnet

# **Future of Hendon Cemetery and Crematorium Implications for Future Shape**



**European Services  
Strategy Unit**

(Continuing the work of the Centre for Public Services)

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UNISON Barnet  
UNISON Office,  
Building 4, North London Business Park,  
Oakleigh Road South,  
London, N11 1NP  
Telephone: 020 8359 2088  
Fax: 020 8368 5985  
Email: [contactus@barnetunison.org.uk](mailto:contactus@barnetunison.org.uk)  
[www.barnetunison.me.uk](http://www.barnetunison.me.uk)

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## European Services Strategy Unit

(Continuing the work of the Centre for Public Services)

Dexter Whitfield, Director

Adjunct Associate Professor, Australian Institute for Social Research, University of Adelaide

Mobile 0777 6370884

Tel. +353 66 7130225

Email: [dexter.whitfield@gmail.com](mailto:dexter.whitfield@gmail.com)

Web: [www.european-services-strategy.org.uk](http://www.european-services-strategy.org.uk)

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# Executive summary

- 1) The procurement process is being rushed to achieve what appears to be a 'quick-win' for Future Shape at the expense of a comprehensive options appraisal and proper preparation for a procurement process. The project was developed to address a capital project, not to address the quality of service which is described as good.
- 2) The options appraisal is flawed both in the selection of criteria and the assessment/awarding of points. The appraisal criteria are too narrow, repetitive and do not address the key issues, which must be assessed by the Council before commencing a procurement process. Our re-assessment, even within the limited framework provided, eliminates the differences between the options and demonstrates the inadequacy of the methodology.
- 3) The agreed Consultation Framework for Staff Transfers in Procurement Contracts has not been applied in this project. The trade unions were only consulted a few days ago yet consultants were appointed in summer 2008 and their report submitted in October 2008.
- 4) The options appraisal does not assess TUPE Plus and secondment options and the consultants report is dismissive in its attitude to employment responsibilities.

## Recommendations

1. In view of the Council's failure to consult with the trade unions under the agreed Consultation Framework for Staff Transfers in Procurement Contracts procedure, there should be a short delay until management and trade unions have had an opportunity to discuss the future of the service and fully examine the options.
2. Comprehensive criteria are drawn up for the appraisal of this and future projects.

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## Part 1

# Future Shape implications

### **Quick-win for Future Shape?**

The approach is fragmented and addresses one aspect of one service, which runs counter to better integrated and more joined up services. It appears to be an attempt by officers to seek an early 'quick-win' to demonstrate that Future Shape is being implemented. However, it could prove an obstacle to more substantive reconfiguring of services at a later date. It undermines good industrial relations.

The options appraisal methodology in this proposal sets a very poor standard for Future Shape. This could lead to major problems for the Future Shape programme and to the Council regaining its 4 star status.

The cemeteries and crematoria project does not represent 'new thinking' - the proposed contract is basically the same as a strategic service-delivery partnership model, which has been used by many local authorities.

### **Lack of consultation and participation with Council trade unions**

The trade unions were neither informed nor consulted about the options appraisal, the work undertaken by management consultants, Sector Projects, a subsidiary of Capita Group. The consultants carried out the work between August and October 2008. The options appraisal is date October 2008 yet the trade unions were only formally notified about the report to Cabinet on 14 April 2009. Whilst the staff involved in delivering the service may have been contacted by the consultants there is no evidence that there was any intention of engaging formally with the trade unions to draw on their ideas and experience.

The Council's Consultation Framework for Staff Transfers in Procurement Contracts (April 2005) identifies three procurement stages – procurement initiation, procurement development and contract negotiations (see Appendix). However, the trade unions have not been consulted on Stage 1: Procurement Initiation (statement of business needs, options analysis, affordability analysis, procurement strategy, risk assessment and in-house bid).

### **Employment charter**

The consultants report only makes reference to TUPE. It fails to examine other employment options – TUPE Plus and secondment. This is another shortcoming of the options appraisal. The Trade unions Briefing No 3 Employment Charter explained the widely recognised limitations of TUPE and the need for a more rigorous approach to maintain the quality of employment in Barnet.

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## Part 2

# Future of Hendon Cemetery and Crematorium

This section examines the basis of the options appraisal and the Report to Cabinet in April 2009. The consultant's report considered three options for the service:

Option 1: Retain in-house and Council undertake the required investment.

Option 2: Contract to outsource the crematorium and external investment with cemetery retained in-house.

Option 3: Contract to outsource the crematorium and the cemetery with external investment.

This project was developed primarily to address the need for capital spending for new equipment and building work. The quality of service is regarded as good.

### **Loss of income for the Council**

The cemetery and crematorium service has an annual income of £1,234,690 with costs of £640,400 leaving a surplus of £594,290 (2007/08 figures). This takes into account the indirect and one-off costs, which would not be saved if the service were outsourced (pages 9-11 of consultant's report). However, these figures do not take account of the cost of procurement (see below) or private sector profit, which would, about 10%. The consultant's report makes it clear that the Council "would have to either accept foregoing" the annual £594,290 income "or look to recoup in any contract with a private sector contractor." In practice the Council would have to negotiate a revenue/profit sharing arrangement with the private contractor.

We believe the Council's objective should be to retain the entire income stream from this service for the benefit of frontline services and/or reducing council tax. There is clearly scope to further improve the service to take account of changing demands and needs arising from a growing and ageing population.

### **Cost of capital investment for the Council**

The capital costs are estimated to be £1.5m comprising £0.75m for the mercury abatement equipment, £0.25m for an extension to house the new equipment and £0.5m to improve the gatehouse. The capital costs of the project represent only three years of the net revenue stream from the service.

The consultant's report claims that all the private contractors stated that they would be able to obtain the mercury abatement and other equipment at a lower cost than the council. This is questionable because the Council is able to work with other London Boroughs and local authorities in Britain to similarly use the collective purchasing power and obtain lower costs. For example on the Capital Ambitions website it is reported 16 London Boroughs join forces to save more than £10.5m in the latest IT hardware e-auction.

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## Options assessment criteria

The repetition and limited scope of the Capita options appraisal criteria used in the cemeteries and crematoria project raises fundamental questions about the capability of the Council to procure services and partnerships in the public interest.

### The fundamental flaws in the options appraisal

The consultant's options appraisal uses 14 criteria to assess the three options:

- Financial (7 criteria)
- Operational (4 criteria)
- Reputational/strategic (3 criteria)

Four of the seven Financial Factors cover the Council avoiding directly incurring costs:

“Council avoids directly incurring the capital costs of implementation of mercury abatement equipment;

Council avoids directly incurring the capital costs of ongoing capital works on the cremation equipment;

Council avoids directly incurring the capital costs of ongoing capital works on the site;

Council avoids directly incurring the capital costs of investment required to bring the service up to modern standards;

In each case Options 2 and 3 receive either two or three points and Option 1 one point.

The mercury abatement equipment, the extension to house this equipment and the renovation of the gatehouse, each estimated to cost £0.5m, are basically one project. It is entirely false to divide the capital works into four sections – in effect the same point is scored four times: Option 1 received 4 points, Option 2 received 10 points and Option 3 received 11 points.

The capital cost required “to bring the service up to modern standards” refers to replacing paper with electronic records and staff training, which can be achieved at relatively low cost. The current service is described as “good standard” and is then referred to as needed to “bring the service up to modern standards” but no additional evidence is provided nor are any costs identified.

Condensing the criteria to one because there is effectively one project reduces the scores for each option by 3, 7 and 8 points respectively.

The financial factors refer to ‘ongoing capital works’ on the crematorium and the site but these are not identified or costed. The implication of ‘ongoing’ could create the impression that a partnership with the private sector will absorb these costs and absolve the Council of any further responsibility. This of course is not the case.

One of the Reputational/strategic criteria is cited as: “Aligns with Council’s corporate objective of the Council being a “smaller entity with a smaller, but more efficient corporate support function.” This may be a political objective of the Council but it is not a valid criteria for options appraisal because it does not ‘test’ the options in terms of efficiency, effectiveness, best value or value for money. Predictably, option 1

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receives one point, option 2 two points and option 3 three points. This criteria should be eliminated.

Two of the operational criteria refer to “Council transfer management of the site to an external provider” and “Council transfer responsibility for the management and delivery of capital works on the site.” This means 6 of the 14 criteria are specially designed to assess the transfer of responsibility from the Council when in fact the criteria merely affirm transfer. The second of these criteria should be eliminated. “Service levels are maintained” is another operational criteria. Options 1 and 2 each score two points and option 3 gets three points.

Since the consultant’s report recognises that the existing service is of a good standard and in the absence of any operational proposals it is not credible to award option 3 an additional point. This should be reduced to 2.

The scoring of the reputational/strategic factor of “The Council retains freedom over the future nature of service provision” is also questioned, in particular the award of 2.5 and 2 points for options 2 and 3. The Council will be tied into a long-term contract in both these options and if the scoring is to be consistent, the points for both options should be reduced by one point.

When the above changes to the criteria and scoring are taken into account the overall scores are transformed – see Table 1. The difference between the three options has been virtually eliminated. **This only proves the inadequacy of the options appraisal criteria and the extent to which the points and conclusions were contrived.**

**The appraisal criteria are too narrow, repetitive and do not address the key issues, which must be assessed by the Council before commencing a procurement process.**

Table 1: **Revised options appraisal score based only on existing limited criteria**

Options	Consultants score	Revised Score
Option 1: Retain in-house and Council undertake the required investment.	25	<b>20</b>
Option 2: Contract to outsource the crematorium and external investment with cemetery retained in-house.	30	<b>18</b>
Option 3: Contract to outsource the crematorium and the cemetery with external investment.	36	<b>20</b>

Source: Barnet Cemetery and Crematoria Option Appraisal, October 2008.

### **False expectations of what the private sector will provide**

The consultant claims that under Option 3 the private contractor “would operate, maintain and invest in the whole site” (page 14). The contractor will take such wide-ranging responsibility but only on the basis of a current condition survey, a schedule of replacement and improvement and whole life costing of the project. It will be priced in the bids and the subject of negotiation with a preferred bidder. In other words, the Council will pay for all the investment directly or indirectly through the loss of revenue.

The report also states that private contractors had indicated that they would be “happy to negotiate commercial arrangements that suited the Council”. The private sector will



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be aware of the new situation confronting local government and may believe they are in a stronger position than they would have been during the preparation of the consultant's report in 2008.

### **Transaction costs**

The Report to Cabinet fails to identify the transaction costs that the Council will incur in the procurement and outsourcing of the crematorium and cemetery. Although the report (para 9.11) recognises that the OJEU tender process has "time and cost implications" no attempt is made to identify the costs or to indicate a procurement timetable. The consultant's report states that the tendering process "could be lengthy and costly for the Council". We estimate these costs to be about £400,00 - £500,000 (including staff time, legal and other costs) on a £20m-£25m contract. The cost of procurement could be about a third of the capital costs of the project!

### **Procurement timetable**

The OJEU procurement process will take at least 12 months because of the nature and scope of the project, which will involve detailed negotiations with a preferred bidder.

A Council report to Cabinet recommending procurement would be expected to include a procurement timetable and a condition survey of the facilities and sites. This will form the basis of the schedule of outstanding works and whole life programming of work required which will form a key part of the contract and pricing by bidders.

The absence of the procurement timetable and other documentation needed prior to commencing the procurement process and the estimate of transaction costs implies that the council is not ready to commence the tendering process. This suggests that it is seeking approval now primarily as a Future Shape 'quick-win' rather than what is in the best interests of the Cemeteries and Crematoria service.

### **Employment options**

The consultant's report is dismissive in its attitude to employees and to employment responsibilities. The reference to "not being averse" to TUPE and having "more appetite for the crematoria staff" do not bode well for staff. Employment is not even one of the appraisal criteria. The Council must ensure that another Fremantle scenario is avoided at all cost.

### **The rationale for option 3**

The Cabinet report gives four reasons for endorsing the consultant's recommendation to accept option 3.

- The management of "the whole business by a private operator" states that it "is likely to be better managed by an organisation that understands the service better than the council" – there is no justification in the report for this statement.
- The statement that a private contractor "is likely to be able to find further savings/income streams from the service" is over-stated simply because there are few savings/income streams in the service.
- The provision of experienced staff and adequate training for "the ongoing operational requirements of HCC" can equally be achieved by the Council providing the service.

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- In-house provision could equally be required to “improve the service” - this is not a prerogative of the private contractor.

### **Trade union position**

The trade unions want to be involved in discussing the future of the Cemeteries and Crematoria service, to contribute ideas about the future of the service, how income can be maximised so that it can be directed to frontline services and/or reduce council tax and to examine all the options more thoroughly so that the Council can obtain best value for Barnet residents.

### **Recommendations**

- In view of the Council’s failure to consult with the trade unions under the agreed Consultation Framework for Staff Transfers in Procurement Contracts procedure, there should be a short delay until management and trade unions have had an opportunity to discuss the future of the service and fully examine the options.
- Comprehensive criteria are drawn up for the appraisal of this and future projects.

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