Barnet UNISON

The Barnet Group Ltd

Local Authority Trading Company: Privatising Adults and Housing Services

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

Executive summary

Flawed process

The options appraisals and business cases for Adult Services and the Housing Service and the business plan for the LATC have serious weaknesses and the process has been deeply flawed. They Council should not be making decisions on the future of services and public assets based on such poor information, analysis and advice.

Large profits required from Adult Services

The Barnet Group business plan has made extensive changes to the income and expenditure forecasts in the business case:

- Profit in year one is forecast to be reduced by nearly 70% but they soar by an astonishing 890% in year two followed by increases of 773% and 591% in the third and fourth years.
- In monetary terms, profits rise from £85,337 to over £700,000 in years three and four. The plan is for Adult Services to make nearly £2m profit over the four year period.

Adult Services will be required to provide 90% of the Barnet Group profits:

- The profit ratio (profit as a percentage of income) in Adult Services is forecast to increase rapidly from 1.5% in year one to 11.1% by year three and falls marginally to 10.9% in year four.
- Ethical and moral issues concerning why Adult Services should be expected to have such high level of profitability are absent from the Business Case and the report to Cabinet.
- In contrast, the net profit level of Barnet Homes remains static at 0.5% over the four-year period.
- It would appear that Adult Services is being set up to be the cash cow. It will not only be the sole provider of dividends to the Council, but will also, in effect, subsidise Barnet Homes. This is inequitable and unsustainable.

Financial instability

The Risk Register excludes a number of important risks.

- A small reduction in income or an increase in costs will result in substantial losses for Adult Services – the business plan concedes Your Choice company is financially vulnerable. There is no assurance provided on the quality or reliability of data and assumptions used.
- Services that are unable to cover their costs and *"…cannot support themselves financially longer term"* (page 51) will be closed down.
- Adult Services are being required to transfer to a new payment mechanism within a very short period of time, which is dependent on changes in the uptake of Direct Payments.
- The financial viability of the Your Choice and Barnet Group companies is heavily dependent on Adult Services. This places the learning disability and physical and sensory impairment services in an untenable, inequitable and unsustainable position.

Erosion of democratic accountability

- Governance arrangements are weak as users and community organisations cannot elect their own representatives to the Board of Your Choice Barnet, given the scope of Adult Services and continuing relationship with service users.

- There is little or no evidence that significant work has been carried out on these matters on the client management function, in particular contract management and monitoring, to avoid adding to Barnet Council's long list of contract failures.

Impact on service users, staff and council taxpayers

- The transfer of services to the LATC and its aim to become a contracting or outsourcing company will have far reaching consequences for service users in Barnet.
- The policy of self-sustaining services, cost reduction strategies and pressure to maximise income to achieve profits will lead to new and increased charges.
- An increasing business and commercial operating environment, profit targets, cost reduction strategies and potential closure/reduction of services will increase inequalities in Barnet.
- Staff will face increased pressure on staffing levels, morale, working practices and terms and conditions, potentially leading to job losses and redundancies.
- A contracting culture will develop in which services and jobs will only be secure for the length and adequate performance of the contract.

Recommendations

Barnet UNISON recommends:

- The plan to establish the LATC should be abandoned, Adult Services and the Housing Service retained in-house, and Barnet Homes returned to direct provision by the Council.

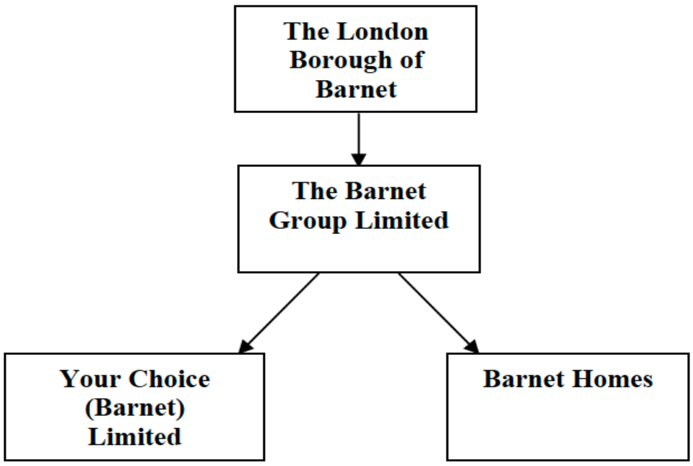
If the Council proceeds with the LATC:

- A revised business plan should be prepared for the three companies which significantly reduce the reliance on profits to be delivered by Adult Services to that required for reinvestment in the service.
- The block contract transitional phase for Adult Services should be extended to three years.
- The Barnet Group should make a long-term commitment to purchase support services from the Council.
- Service user representatives on company boards should be elected.

Part 1

Commercialising adult and housing services

The London Borough of Barnet is proposing to set up a Local Authority Trading Company (LATC) with a group structure to deliver Adult Services and Barnet Homes, the arms length housing management organisation established in 2004. The Teckal exemption (see below) allows the Council to transfer services and assets, under certain conditions, without a procurement process.



Rationale

> *"The aim of the proposal to implement a Local Authority Trading Company is aligned with the One Barnet objective of "a new relationship with citizens" to promote choice and independence for residents. This is a strategic fit with the personalisation agenda for Adult Social Care; the latest statement of policy in the 2010 adult social care vision sets out the ambition is to have all service users on personal budgets, preferably as direct payments, by 2013…..*
>
> *The personalisation agenda will **empower service users to select the services they require from the open market.** Setting up TheBarnetGroup LTD and the 'Your Choice (Barnet)' Limited subsidiary will ensure the continued provision of Adult In-House Services, registered by the Care Quality Commission **within a free market environment.** In turn this will leave the Council free to focus on becoming a commissioner of Adult Social Services as the core business of the authority thus providing a relentless drive for efficiency with the services which remain in-house"*(our emphasis) (page 15).
>
> *"As a commercial company, TheBarnetGroup LTD will be able to adapt and respond to changes within the market to remain competitive"* (page 16).

Adult Social Services to be transferred to LATC

The learning disability and physical and sensory impairment services planned to be transferred to the LATC consist of:

Learning Disabilities Services

> Rosa Morison: building-based day opportunities for people with profound, multiple learning disabilities

Flower Lane Autism Service: building and community-based day opportunities for people with Autistic Spectrum conditions

Community Space: building and community-based day opportunities to promote inclusion, skills development and access to employment.

Valley Way: a short breaks respite service

Barnet Supported Living Service: daily living support for people within their own tenancies.

Physical and Sensory Impairment Services

Barnet Independent Living Service (BILS): building and community based day opportunities to promote inclusion and independent living.

The services employ 172 staff (November 2011).

Proposed transfer of Housing Services

This report should be read in conjunction with *Proposed Transfer of the Housing Service to Barnet Homes and the Barnet Group,* Barnet UNISON's analysis of the implications of the transfer that runs parallel to the establishment of the LATC.

This report refers to Adult Services (Your Choice).

A flawed process

The Adult Services options appraisal and the business case were heavily criticised by UNISON. The analysis of the options appraisal concluded:

> *"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"* (Barnet UNISON, 2010).

It made a number of recommendations including the replacement of 'high level' options appraisals by a more rigorous and comprehensive options appraisal assessment; the Council should cease to engage consultants to prepare options appraisals; a new methodology should consist of a fair appraisal of each option assessing costs and benefits, advantages and disadvantages; and an options appraisal template and best practice methodology to ensure a common corporate approach to draw on the lessons learnt.

Barnet UNISON's evaluation of the Adults Service/LATC business case concluded:

> *"The Local Authority Trading Company (LATC) model is intended to commercialise Barnet's provision of learning disability and physical and sensory impairment services for adults. The business case refers to 'profits' and the Council using its power as shareholder to demand annual 'dividends'. Rather than subsidising important social and housing services, these services will in future subsidise other Council services!"* (Barnet UNISON, 2011)

The business case had a number of shortcomings:

- Corporate impact and strategic risks are inadequately addressed.
- Neither a value-for-money assessment nor a sensitivity analysis has been carried out. In addition, a cost benefit appraisal that includes wider impacts (economy, equalities, sustainability, environment) and distributional impacts.
- Fundamental questions and concerns regarding risk assessment, employment issues and equalities policies remain.
- The trade union interim report identified the lack of contingency plans for cost overruns/liabilities and income and expenditure, user charges and affordability were only partially addressed. The failure to disclose the financial analysis means that all the components of a financial case – budget forecasts, capital and revenue forecasts, user charges, income and expenditure, affordability based on whole life costs and contingency plans for cost overruns/liabilities cannot be publicly verified.
- Stakeholder involvement was not addressed. The business case lacked a transformation plan and contract management, monitoring and review (Barnet UNISON, 2011).

It recommended the Council should terminate further work on the LATC and retain Adult Services in-house and prepare a service improvement plan with full involvement of service users, staff and trade unions. It also made a number of recommendations for the LATC should it proceed.

Teckal ruling

The European Court of Justice (ECJ) ruled in 1999 (the Teckal case) that a public body does not have to invite tenders when it procures works, goods or services from a separate entity which meets two conditions. Firstly, the authority exercises control over the separate entity is similar to that which it exercises over its own departments. Secondly, the separate entity "carries out the essential part of its activities with the contracting authority." Subsequent rulings have ruled that the exemption cannot apply if a private sector party holds any shareholding and the separate entity exists only to service its public sector shareholders.

The report to Cabinet Resources Committee explains further:

> *"In order for the Teckal exemption to apply, the Council will need to demonstrate that it has satisfied the tests relating to 'control' and 'essential part of activities' established by the European Court of Justice. This means that the Council must exercise control, in the sense of exercising decisive influence over both strategic objectives and significant decisions of the TheBarnetGroup LTD and secondly, TheBarnetGroup LTD must provide the essential part of its activities to the Council and ensure that other services provided to third parties are of marginal significance only"* (pages 26 and 27).

New risk

The Council could lose the Teckal exemption if Barnet Group Ltd succeeded in winning contracts to supply services to other organisations. This would affect the continued provision of support services by Barnet Homes to YourChoice Ltd. The report to Cabinet Resources Committee suggests that if the Barnet Group was not able to rely on the Teckal exemption, but wanted to continue to supply support services, the support services could be relocated elsewhere in the Barnet Group structure or be outsourced (page 17).

Part 2
Large profits required from Adult Services

There has been a significant change in the financial forecasts of Adult Services between the business case (approved by Cabinet Resources Committee in May 2011) and the publication of the Barnet Group Business Plan in early January 2012, seven months later. A comparison of the two documents reveals the following changes:

- The income forecast has been reduced by 8.6% in year one followed by reductions of between 4.0% and 5.8% in the following three years – see Table 1.

- Expenditure is planned to reduce by 5.8% in year one followed by decreases of between 12.4% - 16.7% in the following three years. The reduction in VAT of £261,000 that Adult Services will be liable for after transfer only partially accounts for the reduction in expenditure (page 25).

- Although both income and expenditure are forecast to decrease over each of the four-year period, it is the reduction in expenditure of £814,811, £1,095,355 and £1,153,815 respectively in years 2 – 4 that transform the financial situation. Either gross mistakes were made in the preparation of the business case, or a new series of spending cuts and/or closures are planned to achieve this level of expenditure reduction.

- The planned 16.7% reduction in expenditure in year four is £1,153,815, yet no evidence is supplied to indicate how this scale of reduction will be achieved.

- Profit in year one is forecast to be reduced by nearly 70% but they soar by an astonishing 890% in year two followed by increases of 773% and 591% in the third and fourth years.

- In monetary terms, profits rise from £85,337 to over £700,000 in years three and four. The plan is for Adult Services to make nearly £2m profit over the four year period.

Table 1: **Rapid rise in profits between business case and business plan in Adult Services**

	Year 1	Year 2	Year 3	Year 4
Income				
Original Business Case	6,421,768	6,608,022	6,730,782	6,767,262
Business Plan	5,866,841	6,221,290	6,460,470	6,460,470
% change	**-8.6**	**-5.8**	**-4.0**	**-4.5**
Expenditure				
Original Business Case	6,139,508	6,559,915	6,837,447	6,910,407
Business Plan	5,781,504	5,745,104	5,742,092	5,756,592
% change	**-5.8**	**-12.4**	**-16.0**	**-16.7**
Profit/loss				
Original Business Case	282,260	48,107	(106,665)	(143,145)
Business Plan	85,337	476,186	718,378	703,878
% change	**-69.8**	**+889.8**	**+773.5**	**+591.7**

Source: Barnet Group Business Plan 2012-2015

All organisations need to create a small surplus in order to fund reinvestment in the development of services, new equipment and to have a financial reserve to be able to rapidly respond to changes in circumstances and crises. But this only needs to be a small percentage of income or turnover.

A comparison of the profit forecasts in Adult Services and Barnet Homes reveals further inequities - see Table 2:

- The profit ratio (profit as a percentage of income) in Adult Services is forecast to increase rapidly from 1.5% in year one to 11.1% by year three and falls marginally to 10.9% in year four.
- Nearly 90% of Barnet Group profits by year three will be provided by Adult Services.
- A 11% operating profit is basically the top end of profit ratios obtained by the private sector in outsourcing contracts, with many contractors operating at half this profit level.
- Ethical and moral issues concerning why adult services should be expected to have such high level of profitability are absent from the Business Case and the report to Cabinet.
- In contrast, the net profit level of Barnet Homes remains static at 0.5% over the four-year period.
- The profit level in Barnet Homes is almost certain to be inadequate to fund its own reinvestment requirements.
- It would appear that Adult Services is being set up to be the cash cow. It will not only be the sole provider of dividends to the Council, but will also, in effect, subsidise Barnet Homes. This is inequitable and unsustainable.
- Barnet Homes may be liable for corporate tax, estimated liability of £69,100 in 2011-12, which would further reduce profits. The report to Cabinet Resource Committee notes that the *"…liability for the first and subsequent years will depend on the taxable surpluses that are made by Barnet Homes"* (page 16). This suggests there will be further pressure to keep profits low in Barnet Homes to minimise corporation tax liabilities, thus increasing the reliance on Adult Services to maintain a high level of profits. The business case suggests that if Barnet Homes loses the taxation exemption then the Barnet Group could offset any corporation tax liability with additional trading activities" (page 16). This adds further pressure on Adult Services!

Table 2: **Profit ratios in Your Choice and Barnet Homes**

	Year 1	Year 2	Year 3	Year 4
Your Choice				
Business Plan Profit	85,337	476,186	718,378	703,878
% profit ratio	**1.5**	**7.6**	**11.1**	**10.9**
Barnet Homes				
Business Plan Profit	141,805	141,805	141,805	141,805
% profit ratio	**0.5**	**0.5**	**0.5**	**0.5**
Total profits of the Barnet Group	227,142	617,991	806,183	845,683
% Adult Services	37.6	77.0	89.1	83.2
% Barnet Homes	62.4	33.0	10.9	16.8

Source: Barnet Group Business Plan 2012-2015

The source of the profits

Improved financial performance can be achieved by efficiency and productivity increases, the realignment of services between Adult Services and Barnet Homes, increasing the use of existing services, attracting new users, the provision of new or improved services, winning new contracts, or by increasing user charges.

Many of these measures are discussed in 'Developing the Group' in the Barnet Group Business Plan (pages 52-62). It is impossible to connect the financial forecasts and soaring profits in Adult Services with the proposals to improve efficiency and develop services.

The business plan refers to the *"…expectation that the LATC will generate business from a wider group of services users including other local authority areas, self-funders, and other vulnerable people. This proportion grows over the four years from 3% to 9% of target income. The LATC could also gain new business from existing adult social care service users, whose needs have previously been met by other external providers"* (page 55).

The *"…potential opportunities"* for wider service provision and income generation include the provision of mobile units or perform outreach in individual homes, extend the hours/days of service availability, hiring out facilities and selling services to other partners. Proposals are outlined for each of the Adult Services facilities. It is unclear whether the additional cost details in the exempt report provide further details of the existing costs of the facilities and they are costed proposals to widen service provision.

The branding and widening service proposals will incur significant staffing and operational costs over and above any savings that might be achieved, for example, by reducing the opening hours of some facilities.

The Barnet Group Business Case does not take into account the impact of the parallel proposal to transfer the Housing Service to Barnet Homes. The existing Barnet Homes business plan is included in the report, but this is effectively out of date if the transfer is approved at same Cabinet Resources Committee that will decide on the LATC!

In addition, the section 'Developing Barnet Homes' covers welfare reform, Housing Revenue Account/self financing, new business and efficiencies/service improvements in a very brief and upbeat manner that conceals reality. UNISON's separate report, *Proposed Transfer of the Housing Service to Barnet Homes and the Barnet Group,* concluded that the truncation of the Housing Service options appraisal and business case processes is a further deterioration in the service review and procurement process in Barnet. Nor does it fully address the financial and operational implications of increasing demand at a time of further annual spending cuts and reductions in staffing levels. This could impose further financial strains on the financial sustainability of Barnet Homes and the Barnet Group

Reducing expenditure

It is not possible, given the information in the Business Plan, to specifically identify how cost reduction measures will contribute to profits, other than in a general sense.

Council demands to maintain or increase profits

The dye has been cast. Elected Members and senior management know that Barnet Group profits are expected to be £227,000, £618,000, £806,000 and £846,000 over the next four years. The Council has a 100% shareholding and will receive a dividend, less an agreed amount for reinvestment, which can be used to finance other services. **In effect, Adult Services will be subsidising other council services.**

With several more years of public expenditure cuts, the Council will be expecting this dividend to be achieved and maintained. Political pressure on the Barnet Group is likely to intensify, particularly when the initial contract has to be renewed. The response from the Barnet Group is likely to include acceleration of its business strategy to win more contracts from other local authorities and organisations.

This in turn could drive up the value of the Barnet Group and will almost certainly attract takeover bids from larger companies. The Council could receive a substantial one-off payment but lose the annual dividend payment.

Part 3
Financial instability

In addition to the high level of profits imposed on Adult Services, the LATC/Barnet Group is confronted with financial instability arising from significant risks, changes in the payment mechanism, pressure to reduce costs and possible closure of services.

Analysis of the Barnet Group Risk Register

The Risk Register (page 95) identifies 13 risks of which six concerns Your Choice, five apply to Barnet Homes and two to the Barnet Group. In terms of the high-risk category, Your Choice has two (but three in net risk), Barnet Homes three (one in net risk) and Barnet Group one – see Table 3.

Table 3: **Risks for Adult Services (Your Choice)**

Risk	Potential Impact	Gross Risk	Next step/Action	Net Risk
Failure to retain all or majority of existing customers	Loss of income, viability of schemes and/or business threatened	**High**	Ongoing dialogue and reinforcement of service improvements, **cost reduction programme**	**High**
Failure to meet new business targets	Loss of income, viability of schemes and/or business threatened	M	New business opportunities to be pursued, monitor availability and success	M
Unable to drive efficiencies out of YourChoice	Pricing not competitive	M	Timetable review for 2012/13 financial year, **deliver quick wins and programme further efficiencies**	**High**
Commissioning model changes	Relationship affected, loss of contracts/opportunities	M	Include in client meetings to ensure aware of future changes	M
Contract length not long enough to enable change and realise benefits	Decision taken to change service before all benefits/justification realised	M	Clarify contract length with LBB, minimum length needed is 4+1. Ensure success criteria within specification is robust and deliverable	M
Individual scheme/services failure	Individual schemes/services are unable to recover their costs	**High**	Create scheme viability models and run scenarios/option appraisals. **Close down schemes/services that cannot support themselves financially longer term**	**High**

Source: Barnet Group Business Plan 2012-2015

The response to the high risks in Your Choice consists of **cost reduction programme, deliver quick wins and programme further efficiencies, and close down schemes/services that cannot support themselves financially longer term.** All the action in risk management has an April 2013 deadline.

Key risks excluded

The Risk Register excludes a number of important risks. This has become a common pattern in options appraisal, business cases and business plans in the London Borough of Barnet. Operational risks are systematically either excluded or the risk is significantly under-estimated. The Report to Cabinet Resources Committee states *"commercial risk such as venture failure and financial loss ultimately resides with the Council."* It then refers to risk mitigation with regard to changes in the business plan and reduction in growth forecasts. But there are a number of operational risks that are not identified which apply to all three companies and include:

- Contracts with other local authorities or organisations suffer performance failure, are loss making or are terminated.

- Governance disputes between the three companies arising from financial and strategic business decisions (having the same chairperson for all three companies may reduce, but does not eliminate this risk).

- Dispute between the Council and Barnet Group over the annual distribution of profits to the Council and the sum retained for reinvestment. The Cabinet Resources Committee report concedes that *"…the principal duty of TheBarnetGroup LTD Board will be to the company, not the Council, and they may want to reinvest profits rather than distribute as a dividend"* (page 23).

Barnet Homes risks

UNISON's report on the proposed transfer of the Housing Service to Barnet Homes discusses the major risks (Barnet UNISON, 2012) as does the business plan Risk Register (page 95).

Core financial issues

The financial vulnerability of Your Choice company: The projected surplus//profit is £1,279,900 over three years between 2012-2015. However, if LATC income reduces by 2% or 5% per annum (without any changes in the Adult Services cost base), the surplus will turn into a loss of £753,820 or £1,884,540 respectively. Similarly, a 2% or 5% increase in costs will result in a loss of £689,960 or £1,724,900 respectively. ***"This demonstrates how vulnerable Your Choice is financially** and means that careful budget management and business planning of the organisation is key to its success"* (page 65).

Closure of Adult services: Services that are unable to cover their costs and *"…cannot support themselves financially longer term"* (page 51) will be closed down. The table on risk management gives an April 2013 deadline, only a year after the transfer to Your Choice. The risks identified for Your Choice and the business plan's mitigating action indicate the way in which Adult Services may be treated.

The business case stated that if the LATC failed, then services would be brought back in-house. However, the 2012 business plan makes no mention of this with the implication that closure of a service will mean the termination of provision as far as the Council is concerned.

Financial issues and payment mechanism: The funding of Adult services will be insecure. The Council plans to fund Your Choice Barnet via a block contract arrangement, paid monthly in advance. But this is for only one year. In year two, a volume and cost model will come into effect with Your Barnet invoicing the Council for the actual delivery of services with payments made in arrears.

The business plan anticipates' there 'should' be an uptake in Direct Payments as a result of national and local drivers after year one. By the third year, the *"…volume and cost model should be fully established and the council will not provide a guarantee of minimum financial investment for Your Choice Barnet"* (page 63). This means:

- Adult Services are being required to transfer to a new payment mechanism within a very short period of time, which is dependent on changes in the uptake of Direct Payments.

- The transition period is far too short and reliant on events that are outside the control of Adult Services.

- The proposal to review the situation *"…as it is better understood"* (page 63) is totally inadequate.

Intense pressure to cut costs and increase income: These figures clearly indicate the pressure on Adult Services to reduce costs and increase income. The financial viability of the Your Choice and Barnet Group companies is heavily dependent on Adult Services. This places the learning disability and physical and sensory impairment services in an untenable, inequitable and unsustainable position.

Shift from outputs to outcomes: The specification for Adult Services will include performance measures that will shift from outputs to outcomes from year two onwards. However, the means of production and service delivery are fundamental to the quality of work and life, hence the quality of inputs, processes and outputs are equally important as outcomes. The identification of outcomes is much more complex and difficult than the business plan implies, particularly in Adult Services where establishing cause and effect in service delivery and changes in people's lives is not straightforward. Furthermore, the abandonment of inputs, processes and outputs is usually accompanied by attempts of deskilling and changes to terms and conditions, deregulation and devaluation of outputs.

Other planned changes in the Barnet Group

Outsourcing support services

Support services in the Barnet Group will remain in-house under a collaborative agreement with the Council – see Table 4.

Table 4: **Support services supplied by the Council**

Support services to Barnet Group	
• Financial services, including procurement • Office accommodation and facilities management • HR services • Health & Safety • Business improvement, including performance information, customer engagement, PR and communications, and complaint handling. • IT • Facilities	• Office accommodation • Grounds maintenance • Payroll • Printing • Customer care • Legal services • HR (ad hoc support only) • Tree works • Transport • CCTV • Abandoned vehicles

Source: Barnet Group Business Plan 2012-2015

The Barnet Group will be able to withdraw from Council provision of services if the Board has a *"…compelling business case"* (page 52) and must give six months notice. In view of the tendency of arms length companies to withdraw from in-house provision of support services, the Barnet Group should make a longer-term commitment to retain in-house provision.

Barnet Homes to seek new accommodation

The Business Plan reports that Barnet Homes will seek to relocate to new accommodation (page 62). There is no mention of the potential knock-on impact for the Council or other services. This is usually of little concern to arms length organisation or company, because they do not have to bear any of the costs or consequences. If the move required moving out of council accommodation, it would be another indication of the desire of the Barnet Group to distance itself from Barnet Council for commercial reasons.

Change in organisational culture

The Barnet UNISON report on the proposed transfer of the Housing Service to Barnet Homes concluded the culture within the Housing Service and Adult Services could change after being transferred to the LATC.A contract culture will emerge as the companies bid for contracts in other boroughs and provide services to a more diverse range of clients. The type and scope of services may change, increasingly dictated by market forces, bidding strategies and Barnet Group priorities. This could dilute the current focus on, and responsibility for, the needs of users who are Barnet residents. Changes in industrial relations and human resources are likely as the organisation becomes a contractor bidding, winning and losing contracts, with additional subsidiaries created to provide these contracts and services. Contracting is also likely to mean more TUPE transfers leading to further rounds of rationalisation.

Part 4

Democratic accountability and transparency

Governance of the LATC

Service user and tenant representation: Adult Services users will have two places on the Your Choice Barnet Board as Non-Executive Directors. The business plan states that service user representatives will be appointed by the Boards and Chair.

Given the scope of Adult Services and continuing relationship with service users, it is essential that users and community organisations elect their own representatives to the Board of Your Choice Barnet. Anything less makes a mockery of the Council's claim for a 'new relationship with citizens'.

Tenants will continue to have three places on the Barnet Homes Board, with one reserved for a leaseholder (pages 48 and 49).

Industrial relations framework

The Barnet Group will require its own Joint Negotiation and Consultation Committee (JNCC) arrangement. The business plan refers to planned discussions with the trade unions. However, it also refers to the option of a staff council – 'People First'.

Barnet UNISON has been involved in TUPE negotiations and the discussions have recognised the need to set up a JNCC. At no point in those negotiations has there been a discussion about the formation of a staff council and no discussion has been had about how this would affect the set-up of a JNCC. It is worth noting over 50% of staff are currently members of a trade union. Therefore, we are opposed the setting up of a staff council as this arrangement is less efficient and more bureaucratic.

Articles of Association

We have not had the opportunity to conduct a detailed examination of the Articles of Association. However, we believe the Articles should take account of the election of service user and tenant directors and corporate transparency and disclosure requirements given that the companies are publically owned, delivering public services and totally dependent on public money. This is separate from the confidentiality responsibilities of directors (page 115).

Service user involvement

"Service users are at the heart of the LATC governance arrangements, co-producing the design and delivery of services" the business case for the LATC claimed. This statement was repeated in the business plan (pages 43 and 96). The Benefits Realisation Matrix (page 96) states that this will be measured by *"Service user/carer representation at Board level, Business plans are co-produced."*

There is no evidence that the Adult Services business plan was 'co-produced' with service users using the accepted definition of this term. *"Co-production means delivering public services in an equal and reciprocal relationship between professionals, people using services, their families and their neighbours"* (New Economics Foundation, 2009).

There are no other references to co-production in the business case. It should at least outline how co-production will be implemented and the skills and resources needed for implementation. However, service users cannot 'co-produce' because they do not have an economic role in the production of services in the sense of financial, employment, management, statutory and democratic responsibility. Citizens, service users and staff must be involved in the design, planning and delivery of public services and infrastructure projects, but this is not ‘co-production’.

Management of the client relationship with the Council

Barnet UNISON’s report ‘*Proposed Transfer of the Housing Service to Barnet Homes and the Barnet Group’* raised a number of concerns and criticism over the management and accountability of the client function, including:

- The proposals for the client function remain vague and must be addressed as a matter of urgency if the Council is to avoid adding to Barnet Council’s long list of client and contract monitoring failures.
- The delivery of the Housing client function is unclear - it is currently in scope for the DRS contract.
- The Housing Service options appraisal and the business case were prepared with little idea of the scale and cost of the client function of the LATC.

The report to Cabinet Resources Committee on the LATC (January 2012) outlines the corporate responsibilities of the clienting relationship. But it says little about contract monitoring or how the Council intends to ensure that the series of contract management failures are not repeated.

The Council commissioned a Lessons Learned report from PriceWaterhouseCoopers of previous service outsourcings (page 135-136) that concluded:

- *“have strong monitoring and management arrangements.*
- *clear and robust structure that enables the Partnership’s aims, objectives and working arrangements to be reconsidered and, where necessary, revised in the light of monitoring and review findings but also changing customer and delivery requirements.”*

From the evidence of the Housing Service options appraisal/business case and the LATC business plan, further significant work is required on these matters.

Part 5

Impact on service users and staff

Service users

The transfer of services to the LATC and its aim to become a contracting or outsourcing company are likely to have far reaching consequences for service users in Barnet. The direction and policies of the company are evident in the Barnet Group business plan.

Potential closure of service and/or facilities

As soon as the one year transition period ends, activities and services that are not profitable or where the required level of efficiencies are not being achieved in the cost reduction programme, will be considered for closure. The intention to "*close down schemes/services that cannot support themselves financially longer term"* (page 95) implies that each service will be required to be self-sufficient and cross subsidisation will not be considered. There is a major contradiction in applying this policy within the Adult Services company (Your Choice Ltd), but having exactly the opposite policy for the Barnet Group Ltd, which is dependent on Adult Services creating virtually all the profit for the Group.

New and/or increased charges for services

The policy of self-sustaining services, cost reduction strategies and pressure to maximise income to achieve profits will lead to changes in service charges. Whilst some may be reduced as part of a marketing strategy, the overall trend is almost certain to result in new and increased charges.

The lion's share of people in Adult Services is in receipt of services they are eligible for and therefore receive a budget. But the Council wants to make a profit out of the money it provides for people to buy those services! They want to increase the numbers of self funders, but as the pressure to maximize income increases, the take-up of services by more affluent service users could reduce the opportunities of the poorer ones. This makes no sense and undermines independence and choice.

Loss of influence as company expands to become a contractor and Barnet focus and responsibilities are diluted

The focus and responsibilities of the companies will inevitably change if they are awarded adult and/or housing services in other local authorities or other organisations. Barnet could be one contract among many. The Barnet Group will increasingly cease, at least operationally, to be a local authority arms length company. The scale and speed of this change will be directly linked to the so-called 'success' of the Group's business strategy.

Inequalities

Irrespective of claims in the option appraisal, business case and business plan, the stark reality is that a increasing business and commercial operating environment, profit targets, cost reduction strategies and potential closure/reduction of services could increase inequalities in Barnet.

Staff

Changes to working conditions

The plans to develop Adult Services with more flexible operating times, the provision of new services and outreach work, together with cost reduction strategies, will increase pressure on staffing levels, working practices and terms and conditions. The business case outlines the potential benefits for service users and the Barnet Group, but the implications for staff are barely recognised. The development and improvement of Adult Services is vitally important and these could have been achieved with the service remaining in-house.

Job losses and redundancies

The potential closure or reduction in services could lead to job losses/redundancies, particularly if their impact is greater than the increased staffing required to expand/improve other services. It will also depend on the skill requirements.

Contracting culture

The financial instabilities and uncertainties described in other parts of this report, together with the expansion strategy of the Barnet group, will result in increasing insecurity for staff. A contracting culture will develop in which services and jobs will only secure for the length and adequate performance of the contract.

Part 6

Recommendations

Barnet UNISON recommends:

- The plan to establish the LATC should be abandoned, Adult Services and the Housing Service retained in-house, and Barnet Homes returned to direct provision by the Council.

If the Council proceeds with the LATC:

- A revised business plan should be prepared for all three companies which significantly reduce the reliance on profits to be delivered by Adult Services to that required for reinvestment in the service.
- The block contract transitional phase for Adult Services should be extended to three years.
- The Barnet Group should make a long-term commitment to purchase support services from the Council.
- Service user representatives on company boards should be elected.

References

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