



Costs and consequences of a **One Barnet Commissioning Council**

Analysis of the London Borough of Barnet's
reorganisation proposals & commissioning practice



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
www.barnetunison.me.uk

June 2012



(Continuing the work of the Centre for Public Services)

Dexter Whitfield, Director
Adjunct Associate Professor, Australian Workplace Innovation and Social Research Centre,
University of Adelaide
Mobile 0777 6370884
Tel. +353 66 7130225
Email: dexter.whitfield@gmail.com
Web: www.european-services-strategy.org.uk

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: Impact of a Commissioning Council	4
Part 1: Privatising Barnet Council	8
Part 2: The Commissioning Council model	11
What is commissioning?	
Types of commissioning	
Key components of commissioning	
Commissioning – old wine in new bottle	
Decommissioning	
Flawed theory	
Changing the role of the state	
Part 3: Barnet Council's commissioning model	16
How will the Council be reorganised?	
Commissioning in other local authorities	
Part 4: Barnet Council's commissioning record	21
Commissioning record	
Barnet Council's poor track record managing contracts	
Management's failure to implement Audit recommendations	
Commissioning Scorecard	
Part 5: The impact of commissioning	28
Service users	
Democratic accountability and participation	
Public service planning and management culture	
Council taxpayers and value for money	
Local economy	
Equalities and social justice	
High-risk strategy	
Impact on voluntary sector	
Radical change for staff	
Longer-term impact of commissioning	
Part 6: There is an alternative	36
Action plan	
Appendix 1: Key documents produced by UNISON	37
Appendix 2: Key Audit Issues Reported to Audit Committee October 2005 – April 2012	38
References	40

Tables

1. One Barnet outsourcing programme
2. Strategic Partnership Performance Ratio
3. Commissioning's contribution to public service planning
4. Barnet Council's commissioning record
5. Barnet Council's Commissioning Scorecard

Executive Summary

Impact of a One Barnet Commissioning Council

Commissioning separates the client and service delivery functions of the Council and selects a service provider from competition between the public, private and voluntary sectors. Commissioning is contracting.

It affects all services and will have major consequences because the Council will:

- Separate client and contractor functions into a commissioning group and service delivery undertaken by largely outsourced delivery units.
- Replace service reviews and improvement plans with options appraisals, business cases and procurement.
- Mainstream procurement and contracting across the Council.
- Create and manage markets and drive competition between public, private and voluntary sectors.
- Use public money to support markets.
- Manage increased risks in procurement and contracting.
- Commercialise in-house services, which increases likelihood of full privatisation.
- Transfer staff between public, private and voluntary sector companies as contracts are won or lost.
- Decommission (terminate or replace) services.

Commissioning has four stages:

Analysis: needs assessment, gap analysis, resource mapping, establishing priorities and identifying service requirements.

Planning: reviewing services, appraising options, preparing business cases and establishing a strategy, setting objectives, preparing specification and standards.

Procurement: determining market support mechanisms and carrying out a procurement process when this is required.

Managing: contract management and monitoring with regular scrutiny review and evaluation.

Commissioning is not new. The 'enabling' concept of local government ('steering rather than providing') emerged in the late 1980s at about the same time as the idea of 'contract cities' (based on small US towns that outsource most services on grounds of economy of scale). The 'enabling' model did not gain much support in local government although a few local authorities extended competitive tendering and sought to create an internal market, trading units and the externalisation of Direct Service Organisations. Enabling also featured in the quasi-market proposals for the NHS in the early 1990s. 'World class commissioning' emerged in the NHS in 2008.

A flawed theory

The theory behind the separation of client and contractor is flawed. In practice, the separation of client and contractor functions, creation of a provider market, a contract culture and the ideology of free markets, inevitably leads to the run-down of in-house provision. Neoliberal public management, constructed on competition and market forces, pays only lip service to democratic accountability, the quality of employment, equalities and social justice.

Procurement and contracts will be more complex as commissioning extends to more technical services and pressure grows for more integrated services. The demand for better-integrated and coordinated services will drive the trend to larger multi-service long-term contracts.

Outcomes and payment-by-results are the new mantra, but they are at an early stage of development. This creates uncertainties, ambiguities and potential conflicts because

outcomes are rarely simply the result of the service delivery performance, irrespective of who provides the service.

Advocates of commissioning claim the separation of client and contractor functions allows the client or commissioner to ensure the contractor delivers the specification. But the model watchdog role is rarely achieved in practice.

The balance of power is likely to change within local government. Contractors develop a dependency on government contracts, which leads them to search for, and gain access to, insider information and intelligence in order to pursue their corporate objectives, influence the procurement process and to participate in government policy-making.

Barnet's Commissioning Council structure

The Council will be reorganised into five parts: a Strategic Commissioning Board will provide overall management of the council; an Assurance Group will provide independent oversight and assurance to Members and the Board on governance procedures and business processes; a Commissioning Group will be responsible for specifications and will commission services from a range of providers; Support Services and Customer Services (outsourced) will provide support services, such as finance and HR, to support the day to day operations of the council; six Delivery Units (adults and communities and children's service (predominantly in-house) plus schools, development and regulatory services, Barnet Group and street scene (predominantly outsourced) will provide services.

The provision of services will eventually be dominated by three or four large PPP contracts. The outsourcing or transfer to arms length provision of Adults and Children's services will almost certainly continue, leading to a further decline of in-house provision.

Barnet's commissioning record

Barnet Council's transformation and commissioning performance has been rigorously scrutinised by the European Services Strategy Unit over the last four years with more than 30 reports published by Barnet UNISON (see Appendix 1). This is one of the most systematic analyses of a local authority's practice. **Each stage of the Council's commissioning process revealed fundamental weaknesses:**

Transformation: The Council failed to carry out new service reviews and improvement plans with service users, staff and trade unions. Community organisations and service users were not involved in options appraisals, business cases, procurement or the Council reorganisation proposals.

Options appraisals: The 'high level' options appraisals with 'business as usual' in-house options were designed to fail. The Council commenced business case and procurement without options appraisal for Parking Service. Housing Service options appraisal and business case merged making a mockery of the options process. Hendon Cemetery and Crematoria appraisal recommended in-house provision but was ignored. There was flawed evaluation criteria and scoring of options.

Business cases: They omitted strategic, economic, commercial and management case evidence. They failed to assess the future demand for services. The Council attempted to minimise risks by omitting financial, operational, democratic governance and employment risks from Business Cases. The cumulative cost savings over 10 years gives misleading impression. There was no market analysis to assess trends and developments. The Council imposed unsustainable and morally unacceptable profits on Adult Learning Disability Services.

Value for money unproven: Savings figures are over-stated because the cost of redundancies, full transaction costs, contract variations and operational and financial risks are excluded.

Procurement: There were no in-house bids and the Council did not examine the option of Barnet Homes returning to in-house provision. There is a lack of a Corporate Procurement Strategy and refusal to have Gateway Reviews (a peer review to draw on best practice in

procurement process, mandatory in central government but recommended in local government). Non-financial benefits are unsubstantiated, 'thin' client and contract management and monitoring costs are under-estimated.

Risks ignored or understated: Key strategic and operational risks are either ignored or understated. Substantial risks for revenue and benefits are not included in the Risk Assessment

Impact Assessment: No assessment of economic, social and environmental impacts or cost benefit analysis of outsourcing. The Council failed to require contractors to deliver services in Barnet.

Equalities Impact Assessments (EIA): There is no assessment of impact on service users. EIA did not examine loss of employment caused by the export of jobs from the Borough or job losses in the local economy.

High cost of management consultants: There is heavy reliance on costly management consultants committed to outsourcing.

Employment policies: There is a superficial concern for staff and the risks they face. The Council rejected staff secondment and TUPE Plus options. Outsourcing and reorganisation could lead to potentially large staff redundancies.

Systemic failure in contract management in Adult Services

An audit of 20 Barnet internal audit reports for Adult Services reported to the Audit Committee between October 2005 and April 2012 reveal a catalogue of failures in implementing auditing recommendations on procurement, contract management and contract monitoring (see Appendix 2).

Commissioning impact

The impact of commissioning is assessed on democratic accountability and participation; public service planning and management culture; council taxpayers and value for money; the local economy; equalities and social justice; high-risk strategy; impact on voluntary sector; radical change for Council staff; and the longer-term impact of commissioning.

See summary chart on page 7.

There is an alternative

The Council could immediately adopt the service review and improvement process in the Good Practice Transformation Toolkit (Barnet UNISON, 2010) and commit the Council to public service principles and values. This would introduce bi-annual service reviews with improvement plans and regular assessment by Oversight and Scrutiny.

The Council could engage citizens, community organisations, staff and trade unions in the planning and design of services and improve democratic accountability and transparency with disclosure of information essential to support engagement. It should treat citizens as service users, not customers.

All policies and projects would be subject to comprehensive assessment for economic, social, equalities and environmental impacts. The quality of inputs, processes, outputs and outcomes would be built into policies with continuous monitoring and evaluation.

Rigorous monitoring, reporting and reviewing has a key role in improving service delivery, holding service providers to account, assessing employment policies and learning from users and staff about the effectiveness of working methods and processes. Flatter management structures, team working, promoting an organisational learning culture, supported by a training programme to build capability and knowhow, could be the start of a new public service management that would radically improve the effectiveness, efficiency and viability of Barnet Council's services.

IMPACT OF A COMMISSIONING COUNCIL

The consequences for service users

- Market forces will determine the quality of services.
- Service delivery contracts will result in a loss of flexibility and responsiveness.
- Getting answers will be more tortuous with the diffusion of decision-making between the Council, contractors and subcontractors.
- Services users are increasingly being treated as individual 'customers' and will experience an additional organisational layer between them and the policy making process.
- Disclosure will be even more limited increase use of 'commercial confidentiality'.
- The blame game will get worse as contractors shift responsibility for delays and failures to the Council or to other contractors.
- Contractual disputes could cause delays.
- Community involvement will be restricted as procurement extends to more services.
- A significant part of service budgets will be needed to pay for procurement, contract management and profits to contractors, instead of funding frontline service delivery.

The consequences for Councillors

- More power given to officers as increasing complexity of long-term multi-service contracts gives senior management dominant role in procurement and limits role of Councillors.
- Reduced power to change policies and negotiate with providers because of the contracts regime, stand-alone arms length companies and loss of in-house provision.
- Reduced influence in the local economy to create local jobs, influence the labour market and to ensure local businesses have an equal opportunity to obtain supply chain contracts.
- More difficult to determine value for money and be more open to legal challenge.
- More time and resources spent in Oversight and Scrutiny and assurance/audit to improve the Council's ability to manage and monitor contracts rather than strategic policy making.
- Loss of flexibility to respond to Barnet's changing community needs and economic conditions.
- Focus on 'outcomes' will weaken the Councillors influence on the quality of inputs, processes and outputs, which have a big influence on service quality.
- More difficult to ensure implementation of the Council's corporate policies by many private contractors.
- Backbench Members likely to have limited knowledge of contractor performance and contracting issues.

The consequences for Council staff

- Most staff will no longer be employed by the Council, but by private or voluntary sector contractors
- Redundancies, loss of job security and transfers as contracts are won or lost.
- The Council will relinquish responsibility for changes in staffing levels, terms and conditions, and the employment practices of contractors.
- Threat to pensions remains - the contractors bidding for council services have already, or are about to, close their own defined benefit pension schemes.
- Public service career prospects will be damaged.
- Reduced and fragmented implementation of equalities and diversity policies.
- Fragmentation of trade union organisation and representation.
- Commissioning staff will have spend more time managing and monitoring contracts and have less influence as the use of management consultants, legal and technical advisers continues.
- Loss of experience in frontline service delivery and contact with service users.
- Operate in a contract culture in which commercial values will erode a public service ethos.

Part 1

Privatising Barnet Council

From Future Shape, easyCouncil, One Barnet to Commissioning Council

The council embarked on a mass outsourcing strategy with the launch of the Future Shape project in autumn 2008, although the Council strenuously denied this. Future Shape consisted of a three-level structure with a strategic hub to commission services from a Joint Venture Company (JVC), which in turn would procure service delivery from several 'service delivery vehicles'.

In summer 2009, the 'easyCouncil' brand emerged, based on the approach of cheap airlines, although this branding was never formally adopted. It was a media concoction that had little substance. The idea that the Council would not automatically provide blanket coverage of services, users would pay extra for services once considered part of the standard service and pay extra for jumping the queue, was not based on economic or political reality.

In July 2009 the Cabinet approved a phased approach to delivering the Future Shape Programme based on three principles - a new relationship with citizens, a one public sector approach, and a relentless drive for efficiency.

The new relationship with citizens has never materialised, the one public sector approach included a Board consisting of representatives from the NHS, Police and Middlesex University, but this appeared to be tokenistic and had little substance. The major outsourcing projects involve only the Council – see Table 2, page 16.

Barnet UNISON has produced a series of reports since 2008 critically assessing the Council's options appraisals, business cases, procurement process and One Barnet programme. It also detailed alternative options and policies – see Appendix 1.

No options and no consultation with the community

There is no evidence that Barnet Council carried out an options appraisal for the future structure of the Council, nor did it believe that consultation was required under its 'new relationship with residents'. The reorganisation proposals were considered by General Functions Committee on 23 April 2012 and triggered an informal consultation process with trade unions.

We estimate the reorganisation implementation costs to be at least £800,000. This additional cost would eliminate the planned Medium Term Financial Strategy savings of £528,000 in 2012-13 and £263,000 in 2013-14.

At a time of deep and damaging cuts and closures of services in Barnet, it is a poor reflection on the Council that senior management sought approval for a costly radical reorganisation with no reference to its cost.

The London Borough of Barnet is Conservative-controlled Council with a large majority (37 Conservative, 22 Labour and 3 Liberal Democrat).

The Council's current outsourcing programme is centred on seven groups of services – see Table 1. A procurement timetable has not been disclosed for Environment and Operations but this is expected soon because the May Gurney recycling contract ends in 2013. The seven groups of services employ just over 1,200 staff and a similar number will be affected in Environment and Operations, leaving just 1,200 staff employed in the new commissioning structure.

Table 1: Likely staff transfers as a result of One Barnet

Service	Services in scope	Outsourcing or transfer	No. of staff affected
Adult Social Care In-House Provider Services	Learning and physical disability services: transferred 1 February 2012.	Transferred to Local Authority Trading Company – Barnet Group Ltd.	240
Housing	Housing Service: transferred 1 April 2012.	Transferred to Barnet Homes – Barnet Group Ltd	85
Development and Public Health Services (DRS contract)	Highway network management, regeneration, transport planning, highway design, highway development and highways planning and safety: Building control and structures, planning (development management), land charges, environmental health, trading standards and licensing, registration, Hendon Cemetery and Crematoria: indicative date April 2013.	Outsourcing: Capita Symonds or EC Harris	228
New Support Organisation (NSCSO contract)	Finance, human resources, IT, procurement, revenues and benefits, property management, communications: indicative date March 2013.	Outsourcing: Capita or BT	538-759
Customer Services Organisation (NSCSO contract)	All services that employ staff dealing with the public via telephone/internet: indicative date March 2013.	Outsourcing: Capita or BT	
Legal Services	Shared services project with Harrow LBC from 1 July 2012	Transferred to Harrow LBC	36
Parking	Car parks off-street, parking maintenance enforcement and processing, from 1 May 2012.	Outsourced to NSL and RR Donnelly	83
Total to date			1,210-1,431
Likely future procurement			
Environment and Operations	Community protection, greenspaces, street scene, waste and recycling: no date set.	n/a	est 1200
Barnet staff at Sept 2011			3,652

Source: Staff numbers compiled from EIA in Business Cases. Excludes school staff.

Note: There is a discrepancy in the NSCSO staffing figures with three reports on the business case between February 2011 and February 2012, with the EIA identifying 538 employees. However, the June 2011 NSCSO business case report to Cabinet Resources Committee (para 1.2) refers to 622 FTE (which is 759 employees using a 1.22 ratio).

One Barnet programme

All of the One Barnet contracts are focused exclusively on Barnet Council; there is no joint commissioning. Whilst the Council and bidders may claim they want to extend the Council contracts to other public bodies, there is no evidence that this will happen or that it will be successful. Furthermore, there is no evidence that joint commissioning through outsourced services will be as effective and sustainable as collaboration by public bodies via in-house service provision. The failure to assess the impact of outsourcing beyond the narrow interests of the Council's agenda is further proof of the very limited scope of the One Barnet programme.

Strategic partnership contracts in a national context

Strategic partnership contracts, such as Barnet's planned Development & Regulatory Services, New Support Services and Customer Services Organisation, have a poor performance record – see Table 2. Forty-eight contracts had been signed by the end of 2011, of which forty-four were operational. Most were ICT and related services contracts but the total included five planning and regeneration contracts, plus two police authority corporate services contracts.

Nationally, 25% of 44 contracts have either been terminated, reduced in scope with services and staff returned in-house, or experienced major problems (European Services Strategy Unit, 2011).

Table 2: **Strategic Partnership Performance Ratio**

Contract performance	Number	Percentage (%) of 44 contracts
Contract terminations – Bedfordshire CC (HBS), West Berkshire Council (Amey), Sefton MBC (Capita), Essex CC (BT)	4	9.1
Major reductions in scope of contracts with some services returned in-house – Redcar & Cleveland Council (Liberata), Somerset CC (IBM), Rochdale MBC (Mouchel/Agilisys), Swansea City Council (CapGemini)	4	9.1
Significant problems in contracts – Liverpool City Council (BT), Birmingham City Council (Capita), Oldham MBC (Mouchel/Agilisys)	3	6.8
Total contracts	11	25.0

Source: PPP Database 2011, European Services Strategy Unit. Note: Total 48 contracts but excludes 4 new contracts operational for less than a year.

Commissioning and privatisation in local government

Privatisation has mutated. It is no longer solely defined as the sale of state-owned corporations or nationalised industries but includes the transfer of services, outsourcing and the sale of assets. The shift in the financing services from the state to individuals, private finance, and the privatisation of public goods and the public domain are other dimensions.

Commissioning is a central theme running through the four main transformation processes in the financialisation, personalisation, marketisation and privatisation of public services. The commissioning process is designed to increase outsourcing accompanied by market mechanisms to support competition and contestability. The separation of client and contractor functions means that directorate/departmental structures are no longer required, which leads to the reorganisation of local government.

Part 2

The Commissioning Council model

What is commissioning?

A widely used definition of commissioning describes it as:

“...the local authority seeks to secure the best outcomes for their local communities by making use of all available resources without regard for whether the services are provided in-house, externally or through various forms of partnership”

(Creating Strong, Safe and Prosperous Communities, Statutory Guidance, Department for Communities and Local Government, 2008, p49)

Commissioning is contracting. Until fairly recently, support services were ‘contracted out’, but management consultants and professionals, such as architects, were ‘commissioned’. Now, commissioning is applied to all services, because it embraces both client and contractor functions. Statements referring to ‘commissioning and procurement’ are misleading, they are not two different processes, and procurement is one part of the commissioning process. The lack of clarity causes confusion, which successive governments have exploited.

Commissioning separates the client and service delivery functions of the Council. It is an old policy with a new name. Attempts were made to create ‘enabling’ councils alongside compulsory competitive tendering in the 1980s. Support services were then the target, now it is the whole council.

Types of commissioning

Different brands of commissioning have emerged such as ‘world class commissioning’ (the House of Commons Health Committee, 2010 described this a ‘ridiculous’ term), ‘intelligent commissioning’ and ‘strategic commissioning’. However, there is little difference in content or approach. Joint commissioning describes how public bodies may collaborate to obtain shared services.

Advocates of commissioning claim it allows client officers to concentrate on a strategic approach to:

Analysis: needs assessment, gap analysis, resource mapping, establish priorities and identify longer-term service requirements.

Planning: review services, appraise options, prepare business cases, agree strategy, objectives and prepare specification and standards.

Procurement: determine market support mechanisms and carry out a procurement process if this is required.

Managing: contract management and monitoring with regular scrutiny review and evaluation.

Local authorities often develop their own commissioning models or cycles with between four and ten stages, but all have the same basic content. Some models attempt to differentiate between ‘commissioning’ and ‘purchasing/contracting’ implying they are two distinct processes. However, a service retained in-house will be subject to basically the same process, except for procurement.

Key components of commissioning

Commissioning affects all services and will have major consequences because the Council will:

- Separate client and contractor functions into a commissioning group with service delivery undertaken by largely outsourced delivery units.
- Replace service reviews and improvement plans with options appraisals, business cases and procurement.
- Mainstream procurement and contracting across the Council.
- Create and manage markets and drive competition between public, private and voluntary sectors.
- Use of public money to support markets.
- Manage increased risks in procurement and contracting.
- Commercialise in-house services, which increases likelihood of full privatisation.
- Transfer staff between public, private and voluntary sector companies as contracts are won or lost.
- Decommission (terminate or replace) services.

Commissioning adds three new stages to public service planning – understanding the market, managing and developing the market, and purchasing and procurement, all of which are unnecessary in good quality public service practice – see Table 3. There is no evidence that the commissioning model will provide more resources for assessing needs and developing strategies. Managing and developing markets and procurement are time consuming and resource intensive activities and thus reduce the resources available for assessing social needs and developing effective strategies.

Table 3: **Commissioning’s role public service planning**

Stages	Good quality public service practice	Additional commissioning functions
1	Needs assessment	
2	Resource analysis	
3	Best practice evidence	
4		<i>Understanding the market and soft market testing</i>
5	Establishing priorities	
6	Strategy development	
7	Consultation	
8		<i>Managing and developing the market</i>
9	Service design	
10		<i>Options appraisal, business cases and procurement process</i>
11	Monitoring performance	
12	Review and Scrutiny	

Commissioning – old wine in new bottle

The ‘enabling’ concept of local government (‘steering rather than providing’) emerged in the late 1980s at about the same time as the idea of ‘contract cities’ (based on some small US towns that outsource most services on grounds of economy of scale). It followed the Conservative government’s Local Government Planning and Land Act 1980 which required competitive tendering of building and highways services. A number of local authorities voluntarily tendered refuse services and ultimately to the expansion of Compulsory Competitive Tendering (CCT) in 1988 to cleaning, catering, grounds maintenance and other support services. CCT was later extended to sports and leisure management in 1991 and to technical and professional services the following year.

Meanwhile, the Department of Health issued a management letter to Health Authorities urging them to tender NHS support services such as cleaning, catering, laundry, portering and estate maintenance from 1983. The NHS and Community Care Act 1990 led to the growth of a social care market. A civil service market-testing programme began in 1992.

The 'enabling' model did not gain much support in local government although a few local authorities extended competitive tendering and sought to create an internal market, trading units for in-house services and the externalisation of Direct Service Organisations. Enabling also featured in the quasi-market proposals for the NHS in the early 1990s.

CCT was abolished by the Labour government in 1998 and replaced by 'best value', which consisted of four 'C's - challenge, compare, consult and competition. The Labour government also established a Strategic Partnering Taskforce in 2000 to promote the outsourcing of ICT and corporate services in long-term multi-services strategic partnership contracts.

Proposals for 'Creating a Patient-led NHS' in 2005 extended commissioning throughout the whole NHS system were followed by the Department of Health's 'world class commissioning' programme from 2008. By 2010, the government had transformed its position in abolishing CCT to mainstreaming competition across all public services.

Decommissioning

Decommissioning or disinvestment is the reverse of commissioning. Although 'creative decommissioning' can involve the redesign of services and replacement of an existing service by a more effective and innovative service (NESTA, 2012), the threat of non-replacement or a significantly reduced service is high in the prevailing circumstances. "Closing down older models of service provision" is discussed in the context of local authorities commissioning services rather than providing them and the likelihood of more aggressive decommissioning as budgets are squeezed (NESTA, 2012). Public spending cuts will continue until 2015-2016 and beyond.

Commissioning makes decommissioning much easier, because the conclusion or termination of a contract could mean that there is no longer a provider. Whilst decisions about provision would have to go through the normal political and statutory processes, local authorities and public bodies will have more flexibility and fewer responsibilities, for example, staff would be employed by the contractor, not the authority.

Flawed theory

The theory behind the separation of client and contractor is that those who fund and purchase services (the commissioners) can concentrate on assessing needs, planning services and ensuring that an appropriate range of services is available for a specific population. Supporters of the commissioning model often claim that in-house service providers have a tendency to design services and set standards that are overly influenced by their own priorities and interests, with negative consequences for service users. Separating the client and contractor functions is said to allow each to focus exclusively on specific tasks. A mixed market of service providers is claimed to increase choice, improve efficiency, reduce costs and enhance innovation.

In theory, commissioning does not automatically lead to outsourcing. In practice, the separation of client and contractor functions, creation of a provider market, a contract culture and the ideology of free markets, inevitably leads to the run-down of in-house provision. Neoliberal public management, constructed on competition and market forces, pays lip service to democratic accountability, the quality of employment, equalities and social justice.

Barnet Council is at odds with Coalition Government policy. The Open Public Services White Paper stated:

"We do not have an ideological presumption that only one sector should run services: high-quality services can be provided by the public sector, the voluntary and community sector, or the private sector" (Cabinet Office, 2010).

Commissioning and the Commissioning Council model raise important issues.

Firstly, commissioning covers **all services**, so procurement and contracts will be more complex as it extends to more technical services and pressure for more integrated services grows.

Secondly, the demand for better integrated and coordinated services and projects will drive **the trend to larger multi-service long-term contracts**. More complex contracts increase commissioning and bidding costs. Large contracts are beyond the capability of voluntary organisations and small and medium enterprises.

Thirdly, **outcomes and payment-by-results are the new mantra**, but they are at an early stage of development. This creates uncertainties, ambiguities and potential conflicts because outcomes are rarely simply the result of the service delivery performance, irrespective of who provides the service (Whitfield, 2012). The idea that commissioners will determine what outcomes are required and then rely on the market and contractors to decide how they will be achieved is highly questionable. The focus on outcomes also marginalises the quality of jobs, employment conditions and equalities. Contractor-led changes to service delivery methods will make the alignment of contract monitoring by the client more difficult. Payment-by-results has been implemented in the Work Programme, rehabilitation, public health, drug and alcohol recovery, children's centres and some Supporting People services, and the government is exploring ways in which it will be extended to court and tribunal administration, customer contact services, immigration and visa administration and other services (Cabinet Office, 2010).

Fourthly, advocates of commissioning claim the separation of client and contractor functions allows the client or commissioner to ensure the contractor delivers the specification. But **the model watchdog role is rarely achieved in practice**. Commissioners usually 'protect' the contractor when they are criticised, because it also implies criticism of the authority, which is responsible outsourcing the service. Behind the scenes commissioners may be critical of the contractor, but this will usually only become public if there are systemic failures and the commissioners have to take action by reviewing the service, requiring the contractor to provide additional resources, or terminating the contract.

The attempt to have a 'thin' or slim-line client requires the Council to have the minimum level of staffing for all the client functions, including contract management and monitoring (see page 31). It usually includes a high degree of self-monitoring by the contractor. Given Barnet Council's poor track record in managing and monitoring relatively small contracts, this is a very high-risk strategy for large multi-service contracts. A 'thin' client could also lead to a lack of capability to carry out the analysis and planning stages of commissioning.

Finally, the concept of neighbourhood contracts may fulfil localism objectives, but they impose additional procurement and contract management costs and rarely demonstrate value for money. The trend towards larger multi-service contracts was evident before the financial crisis. Deep public spending cuts and the division of citywide services into neighbourhood contracts raises economic issues and **questions whether localism and value for money are compatible**. A marketised contractual system imposes severe constraints in meeting other public policy objectives.

Changing the role of the state

Commissioning is changing the role of the state in several significant ways. Procurement and contract management are being mainstreamed as a primary task of public management. Local authorities have always used procurement for goods and services, but commissioning requires procurement on a much larger scale.

"The Coalition Government has set out plans for a significant acceleration in the policy of commissioning public services with payments by results based on achieving defined outcomes. This shift has the potential to fundamentally realign the roles of central Government and Local Government, and to define more clearly the role of the state as a commissioner with civil society and the private sector as providers" (Institute for Government, 2010).

The drive to create new types of providers could include further financing of the formation of social enterprises and support for voluntary organisations to "...acquire current public sector

providers that would benefit from being run as a specialised charity (for example, offender management or children's services" (Cabinet Office, 2010). The Community Right to Challenge will allow community and voluntary organisations and council staff to challenge and to bid to deliver public services. It has resource implications for local authorities that must consider and evaluate expressions of interest and, where applicable, commence a procurement process.

The balance of power is likely change within local government with private companies having a more significant role in service delivery and in the public policy making process. Local authorities will be dependent on national and transnational companies to act as agents to implement Council corporate policies. The degree to which they are implemented will depend on whether these policies are a condition of contract and on the quality of monitoring, audit and Oversight and Scrutiny. This may trigger challenges to Council policies and disputes and a watering down of policies and/or commitment to their implementation.

The **government plans to deregulate the public sector** will also change the role of the state. They include giving autonomous status to arms length companies, trusts and academies; reviewing statutory duties in local government; and reducing data requests (Cabinet office, 2010).

Commissioning extends and embeds marketisation in the public sector. 'Making markets' requires public funding of market mechanisms (these incurred £8.4bn one-off and £3.1bn annual costs nationally in the decade to 2005, Whitfield, 2006). They also require state intervention when markets and contracts fail. The mixed market and new forms of procurement in the commissioning model, such as payment by results and the extension of personal budgets within service delivery will extend the marketisation of council services.

Contractors develop a dependency on government contracts, which leads them to search for, and gain access to, insider information and intelligence in order to pursue their corporate objectives, influence the procurement process and to participate in government policy-making. It can lead to contract collusion and corruption. Contractors become major employers in localities and this, in turn, is used to lever further concessions.

In the longer term, the commissioning model sets an example to other European countries of the potential consequences of extending the scope of the European Union's Services Directive and organising local government on the extension of competition and markets.

Part 3

Barnet Council's commissioning model

How will the Council be reorganised?

This section assesses the Council's reorganisation proposal - Re-organisation of the Senior Officer and Council Structures, Report of Chief Executive to General Functions Committee, 23 April. It includes a description by the Council of the main function of the five-part organisational structure.

Flawed reasoning

The following are key quotes from the Reorganisation report followed by comments:

"The customer is at the centre of the council's business and the structure is formed around this principle" (page 2, Reorganisation report)

This statement is disingenuous because private contractors are at the centre of reorganisation.

Potential conflicts of interest and disputes may arise between the Strategic Commissioning Board and Commissioning Group with one or more Delivery Units. Staff in Delivery Units may recognise that proposed changes in delivery plans or spending cuts would significantly disadvantage service users and 'align' with contractor and service user interests. The structure will make traditional client-contractor disputes more likely. Differences between treating citizens as service users or customers are likely to arise.

Criticism that departments and directorates in local and central government are silos that have often work in isolation and restrict the integration of services have some merit. But the Council is creating Contract Silos that will have most of the same attributes, plus a profit motive running through them.

"...the focus remains on achieving the best outcome for residents, without any pre-determined position on who should provide the services required" (page 19, Reorganisation report).

This is highly questionable. The Council has deliberately excluded in-house delivery by having 'status quo' in-house options designed to fail, refused to have in-house bids and made extensive use of management consultants and advisers committed to outsourcing. For example, Council investment and in-house operation of Hendon Cemetery and Crematorium was proven to be the best option, but this was summarily rejected.

Firstly, there is nothing in the commissioning concept that provides residents with any assurance that Commissioning Group staff will be focused on 'achieving the best outcome for residents'. Secondly, residents can have no confidence that the Council will engage them in the commissioning process, given the systemic lack of involvement in Future Shape/One Barnet projects to date. Thirdly, the idea that there will be no predetermined position on who provides services is simply not the case. Having outsourced the bulk of services and the workforce in long-term contracts, are elected members and senior management are suddenly going to become neutral and lose their neoliberal ideology?

The Council plans to spend at least £9.2m in the three-year period between 2010/11 and 2012/13 on the transformation programme and Programme Management Office, the vast bulk on consultants and lawyers. Spending on consultants and advisers will continue to be a key feature of the commissioning council.

“Commissioning places greater emphasis on analysis and evaluation than traditional models of providing public sector services” (page 19, Reorganisation report).

Resources will be diverted to procurement, managing and monitoring contractors at the same time as large cuts in staffing levels.

Commissioning is often described as a broader and deeper process than procurement because “...of meeting needs for whole groups of service users and/or whole populations. It provides for a “whole system” approach to developing improved outcomes, which links strategic objectives, the intermediate outcomes required from individual services and specific outputs required from delivery arrangements. It involves developing policy directions, service models and delivery capability to meet those needs in the most appropriate and cost effective way; and then managing performance and seeking service improvement through parallel management of various relationships with providers and partners” (Department for Communities and Local Government, 2008).

The Council is already responsible for identifying the economic and social needs of their population, interest groups and businesses. It has a raft of statutory duties to fulfil including those on equalities. A commissioning model neither increases the ability of the council to undertake this research and analysis, nor does it provide additional resources to carry it out. Further, a commissioning council is more likely to adopt a more commercial approach to this research and analysis, which will have a further negative impact for Barnet residents.

A neutral position is not economically sustainable or politically credible. It is not feasible for in-house services to be effective and viable if they are subject to competitive tendering at the whim of elected members and commissioning officers if the service encounters problems. Further, how can commissioning offers maintain neutrality when the market is not neutral? Private contractors constantly want to increase the scope of their services and apply commercial pressures to achieve this.

“Commissioning builds on the current methods for engaging residents and developing services with them. It places understanding residents and working with them at the heart of its core processes” (page 19, Reorganisation report).

Residents have had no role in options appraisals or the procurement process. Private contractors have been imposed on service users.

The Future Shape, easyCouncil and One Barnet projects have repeatedly made statements about ‘a new relationship with citizens’, yet there is nothing that puts this into practice. The Reorganisation proposal makes no mention of how the structure will contribute to increased citizen engagement.

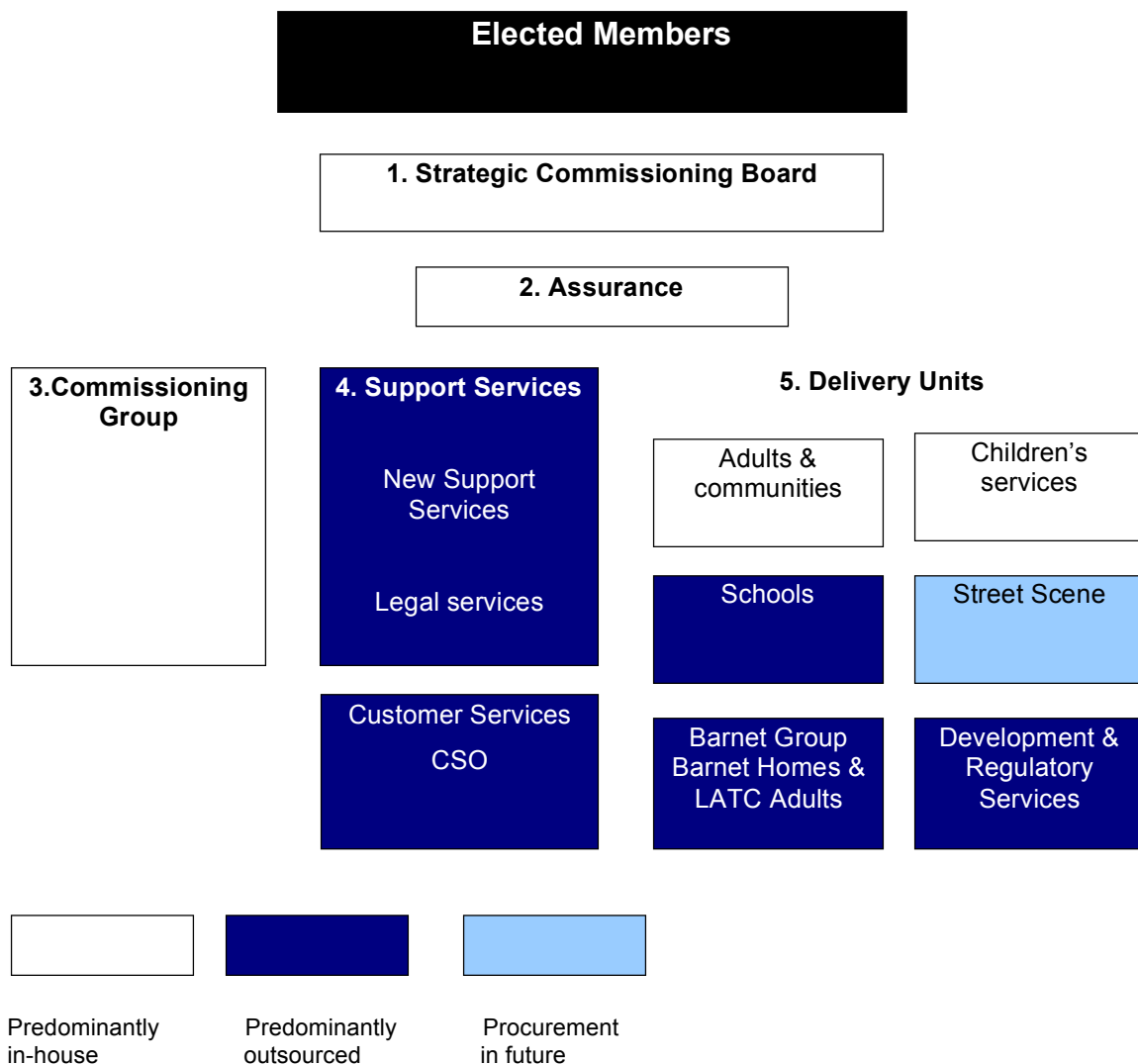
The report is silent on staff and trade union involvement in the planning and delivery of services. They may claim that they do not want to encroach on what will be the responsibility of each contractor. However, it is essential that the Council should establish clear employment principles and practices and those contracts include a requirement that contractors meaningfully involve staff and trade unions in service improvement and service delivery.

“Delivery Units, whether internal or external to the council, will be supported and expected to lead, shape and re-design their services to best meet the needs of residents” (page 21, Reorganisation report).

Most Delivery Units will be outsourced, meaning that private contractors will have a large role in redesigning services.

Delivery Units are, in effect, contract units. There are many references to partnerships in the Reorganisation proposals, however, they are not partnerships, but contracts primarily with private contractors. Private contractors will be dominant in the council structure and eventually employ about ten times the number of staff employed by the Council.

Proposed Structure of Barnet Council



Source: Reorganisation of the Senior Officer and Council Structures, 2012, amended to highlight scale of outsourcing. Timetable for options appraisal/procurement of Street Scene not available but planned.

Barnet Group Ltd is a trading company consisting of Barnet Homes and Adult Learning Services subsidiaries. The trade unions are concerned that the arms length company model is a pathway to privatisation.

The provision of services will eventually be dominated by three or four large PPP contracts. Outsourcing or transfer to arms length provision of Adults and Children's services will almost certainly continue, leading to a further decline of in-house provision.

The Council's view: Main functions of the new organisational design

“1. Strategic Commissioning Board: Provides overall management of the council, working with Members to set the strategic outcomes for the borough. Sets and monitors the future direction of the council and ensures high performance against outcomes.

2. Assurance Group: Provides independent oversight and assurance to Members and the Board on governance procedures and business processes. Supports Members in carrying out their ward and scrutiny roles.

3. Commissioning Group: Translates outcomes set by Members and the Board into a range of delivery specifications or ‘commissions’ using specialist expertise from across the council and its partners. The Commissioning Group commissions services from a range of providers in line with the delivery specifications it develops. It engages Members, residents and partners to help it create commissions and in their review.

4. Support Services and Customer Services: Provides support services, such as finance and HR, to support the day to day operations of the council as well as the management of the council’s interactions with customers. Customer Services help to ensure that residents and other customers remain a central focus of all units.





5. Delivery Units: A mixture of in-house, arms length, volunteer and private service providers. Delivery Units are primarily operational and focused on executing commissions set by the Commissioning Group. Delivery Units engage Members and residents in the creation of services. They have accountability for delivery of key services.”

(Extract from Reorganisation of the Senior Officer and Council Structures, London Borough of Barnet, 2012)

Barnet Council’s Leadership Framework

Reorganisation is guided by a Leadership Matrix which has role four types, four leadership levels (from 4 to 7 – Strategy Director, Director/Deputy Director, Assistant Director and Head of Service), four core accountabilities, four core accountability behaviours, four specific leadership behaviours and four people values (be human, be collaborative, value diversity and be trustworthy) – see Leadership Matrix below:

Leadership Matrix

1	4 x Role Types	Assurance	Commissioning	Delivery and Commissioning	Delivery
2	4 x Leadership Levels	Level 7	Level 6	Level 5	Level 4
3	4 x Core Accountabilities	Think Customer	Leadership and People Management	Democratic Spine	Financial and Risk Management
4	4 x Core Leadership Behaviours	Confident and resilient	Influences	Drives Innovation	Entrepreneurial
5	4 x Specific Leadership Behaviours	Customer focused	Engages people	Brings insight	Drives continual improvement
6	4 x People Values	 Be Human	 Be Collaborative	 Value Diversity	 Be Trustworthy

Source: Barnet’s Leadership Framework Summary, May 2012.

Barnet Council’s reorganisation has two parts – one for senior management currently being implemented and another for other staff to follow later. The first stage of reorganisation will affect 95 posts, of which 48 are new posts, 24 are potential TUPE transfers with the DRS and NSO/CSO projects, leaving 23 posts at risk of redundancy, although the Council denies this arithmetic.

There is a lack of clarity over the staffing levels in each of the five-part commissioning structure, which creates a great deal of uncertainty. Some staff may be forced to make a choice between applying for new jobs in contract management and monitoring, procurement and business development or leaving the Council.

The language of commissioning is deceptive. It is presented as an unbiased rational process of analysis, planning, delivering and reviewing, but it is driven by neoliberal ideology. The concept of a 'mixed market' in Barnet means the bulk of service delivery will be by private contractors with an ever-decreasing percentage of in-house or voluntary sector provision. The Council refused to resource a properly funded in-house service delivery option, which inevitably meant that the in-house option would not be selected. This 'justified' a ban on in-house bids, and de facto a mixed market, in order to ensure outsourcing option was always chosen. A lack of openness and transparency runs through most commissioning documentation.

Commissioning in other local authorities

Cornwall County Council is also planning to be a commissioning council, led by its chief executive who was previously chief executive of Agilisys, and a director BT, Enterprise and Serco. Cornwall has recently decided to separate commissioning and service delivery with a client arm, provider (service delivery vehicles) and a control arm (Cornwall County Council, 2011). The Council has agreed to establish two service delivery units for neighbourhood services and also for housing and leisure services. It is currently in procurement for a strategic partnership joint venture for support services.

Swindon Council, Shropshire County Council, Westminster City Council, London Borough of Sutton, Brighton and Hove City Council, Solihull MBC, and Essex County Council have also indicated their enthusiasm for the Commissioning Council model. Some other local authorities, such as Somerset County Council and Southampton City Council are undertaking major reviews of services and service delivery methods. Suffolk County Council embarked on a commissioning council model but abandoned this policy following a change in Council Leader and chief executive.

Several local authorities, such as Nottingham City Council, Solihull MBC, Birmingham City Council, Shropshire County Council and Bristol City Council have drawn up Commissioning Frameworks primarily for Adult Services and voluntary sector contracting.

However, a clear distinction can be drawn between adopting the Commissioning Council model for all services and commissioning frameworks primarily for adult services.

Part 4

Barnet's commissioning record

Commissioning in Barnet

Barnet Council's transformation and commissioning performance has been rigorously scrutinised by the European Services Strategy Unit over the last four years with more than 30 reports published by Barnet UNISON (see Appendix 1). This is one of the most systematic analyses of a local authority's practice – see chart on pages 21-23. **Each stage of the Council's commissioning process revealed fundamental weaknesses:**

Transformation: The Council failed to carry out new service reviews and improvement plans with service users, staff and trade unions. Community organisations and service users were not involved in options appraisals, business cases, procurement or the Council reorganisation proposals.

Options appraisals: The 'high level' options appraisals with 'business as usual' in-house options were designed to fail. The Council commenced business case and procurement without options appraisal for Parking Service. Housing Service options appraisal and business case merged making a mockery of the options process. Hendon Cemetery and Crematoria appraisal recommended in-house provision but was ignored. There was flawed evaluation criteria and scoring of options.

Business cases: They omitted strategic, economic, commercial and management case evidence. They failed to assess the future demand for services. The Council attempted to minimise risks by omitting financial, operational, democratic governance and employment risks from Business Cases. The cumulative cost savings over 10 years gives misleading impression. There was no market analysis to assess trends and developments. The Council imposed unsustainable and morally unacceptable profits on Adult Learning Disability Services.

Value for money unproven: Savings figures are over-stated because the cost of redundancies, full transaction costs, contract variations and operational and financial risks are excluded.

Procurement: There were no in-house bids and the Council did not examine the option of Barnet Homes returning to in-house provision. There is a lack of a Corporate Procurement Strategy and refusal to have Gateway Reviews (a peer review to draw on best practice in procurement process, mandatory in central government but recommended in local government). Non-financial benefits are unsubstantiated, 'thin' client and contract management and monitoring costs are under-estimated.

Risks ignored or understated: Key strategic and operational risks are either ignored or understated. Substantial risks for revenue and benefits are not included in the Risk Assessment

Impact Assessment: No assessment of economic, social and environmental impacts or cost benefit analysis of outsourcing. The Council failed to require contractors to deliver services in Barnet.

Equalities Impact Assessments (EIA): There is no assessment of impact on service users. EIA did not examine loss of employment caused by the export of jobs from the Borough or job losses in the local economy.

High cost of management consultants: There is heavy reliance on costly management consultants committed to outsourcing.

Employment policies: There is a superficial concern for staff and the risks they face. The Council rejected staff secondment and TUPE Plus options. Outsourcing and reorganisation

could lead to potentially large staff redundancies, particularly since the Council has refused to require contracted services to be delivered in Barnet.

Abbreviations in Table 4: CSO - Customer Services Organisation; DRS - Development and Regulatory Services; LATC - Local Authority Trading Company; NSO - New Support Organisation (see Table 1 for details of services included in scope).

Table 4: **Barnet Council's commissioning record**

Commissioning activity	Services	Impact
Transformation		
Failed to carry out new service review and improvement plan with staff and trade unions before commencing options appraisal.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	Ensures in-house option is not developed. Ignored <i>Good Practice Transformation Toolkit</i> that set out templates for service reviews, improvements plans, options appraisals and a <i>Barnet Protocol</i> for staff and trade union involvement.
Governance and transparency issues treated superficially or not all.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	Problems with accountability, scrutiny and disclosure in contract management are inevitable.
Implementation of Council's corporate policy of a 'new relationship with citizens.'	All services	Community organisations and service users not involved in options appraisal, business case, procurement or the Council reorganisation proposals. Could lead to major problems and conflicts as contracts are implemented.
Options appraisals		
'High level' options appraisals with 'business as usual' in-house option. Flawed methodology.	DRS, NSO/CSO, LATC/Barnet group	In-house designed to fail and therefore Council's proceeds to business case and procurement.
Commenced business case and procurement without options appraisal.	Parking Service	The evidence of this omission is in Parking Service Business Case, Budget & Performance Overview Scrutiny Committee, 21 June 2011.
Options appraisal and soft market test recommended in-house provision (following rejection of options appraisal by Capita) but included in procurement.	Hendon Cemetery and Crematorium	Dogmatic approach led to in-house option being ignored and included in Development and Regulatory Services procurement. Private finance abandoned because of procurement timetable but Council agreed to finance £2m investment in HCC, yet kept in scope in the knowledge that it would be subcontracted by the DRS contractor.
Flawed evaluation criteria and scoring of options.	All services	Options appraisal and business cases were not supported by facts, empirical evidence or case study experience.
Project Initiation Documents (PID) have limited reference to risks.	DRS, NSO/CSO	For example, CSO Project Initiation Document identified five risks in an Appendix and indicates low priority given to major risks encountered for users, staff and council taxpayers.
Merger of options appraisal and business case into one document for approval.	Housing Service	Appraisal of options with simultaneous preparation of business case for preferred option pre-determines option, invalidates options appraisal process and value for money assessment.

Business cases		
Cumulative cost savings over 10 years give misleading impression.	All services	Rolling up cost reductions is purely for political purposes to try to claim a benefit of outsourcing. They assume that savings achieved in the early years of a contract are available for every successive year and do not take account of increased demand and/or higher costs. The impact of inter-dependencies are not fully explored in all business cases.
Strategic, economic, commercial and management case omissions. Lack of sensitivity analysis.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	Failed to address key elements of Office for Government Commerce, Local Partnerships and HM Treasury Green Book best practice guidance on the preparation of Business Cases.
Failure to assess the future demand for services.	DRS	Increased demand could lead to higher costs and reduce savings.
Council attempting to minimise risks by omitting financial, operational, democratic governance and employment risks from Business Case.	NSO/CSO	Superficial risk assessment means exposing Council, service users and staff to additional potential risks and costs once the contract commences.
Imposed unsustainable and morally unacceptable profits.	LATC/Barnet Group	Adult Learning Disability services required to make £2m profit over 4 years, 90% of Barnet Group profits.
Lack of market analysis to assess trends and developments.	LATC/Barnet Group	Lack of understanding of sector in which company has to operate could lead to service cuts and threaten financial viability.
Value for money unproven		
Savings figures are over-estimated because cost of redundancies, real level of transaction costs, contract variations and operational and financial risks are not included.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	Savings could be significantly smaller over the contract period and invalidate value for money.
Flawed options appraisals and business cases.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	Council unable to verify that decisions to start procurement were made on value for money criteria.
Critical review by auditors Grant Thornton: Review of the Governance Arrangements of the One Barnet Programme, September, 2010.	One Barnet programme	One Barnet programme required identification of quantitative and qualitative costs and benefits, "...the Council needs to embed more deeply a wider understanding of the identification, mitigation and management of risks".
Procurement		
No in-house bids and did not examine option of Barnet Homes return to in-house provision.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	No mixed market in Barnet! Council ignored economic case for in-house bids.
Lack of a Corporate Procurement Strategy.	All services	Lack of overall strategy. UNISON submitted comprehensive draft developed from a best practice strategy prepared by another local authority and Barnet's local circumstances. No response from Council.

Refusal to have Gateway Reviews. Peer review to draw on best practice in procurement process, mandatory in central government but recommended in local government (Office for Government Commerce).	All services	Loss of opportunity to draw on best practice. Refusal implies a degree of arrogance that they can learn nothing from other local authorities, or are afraid of exposing their practice to peer review.
Non-financial benefits unsubstantiated.	All services	Win-win scenarios claimed for the Council, service users and staff that are unrealistic and implausible. No evidence supplied to support statements.
'Thin' client and contract management and monitoring costs under-estimated.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	Increase in client costs over contract period will reduce level of savings and/or divert staff from needs assessment and service planning.
Risks ignored or understated		
Limited risk assessments that ignored strategic and operational risks.	DRS, NSO/CSO, LATC/Barnet Group	Flawed business cases and potential procurement failures by ignoring high level of performance failures and problems in strategic partnerships in other local authorities.
Substantial risks for revenue and benefits are not included in the Risk Assessment.	NSO	Potential significant loss of revenue for the Council if Revenue does not maintain current performance.
Impact Assessment		
No impact assessments or cost benefit analysis of outsourcing.	All services	Failure to identify effect of policies on local economy and social, environmental, health impacts as recommended HM Treasury Green Book.
Failure to require contractors to deliver services in Barnet.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	Several Parking staff made redundant immediately after TUPE transfer. Relocation of services and staff brings new risks, additional monitoring costs and further job losses in local economy.
Equalities Impact Assessments (EIA)		
EIA is treated mainly as a data or statistical assessment of staff.	DRS, NSO/CSO, and Parking Service	Superficial equalities assessment that does not take full account of impact on staff.
No assessment of impact on service users.	DRS, NSO/CSO, and Parking Service	The impact of major changes in the delivery of services on users and potential users has not been assessed so no plan to eliminate or mitigate negative impacts.
EIA do not examine loss of employment caused by the export of jobs from the Borough or loss of job opportunities in the local economy.	All services	Council ignorant of the wider equalities impact of commissioning and outsourcing.
High cost of management consultants		
Heavy reliance on management consultants.	All services	Council plans to spend at least £9.2m in the three-year period between 2010/11 and 2012/13, mainly on consultants.
Selection of consultants and lawyers committed to outsourcing.	All services	Failure to consider sustainable in-house option, failed to identify operational performance and risks of strategic partnership contracts for Council.

Employment policies		
Superficial concern for staff and the risks they face.	All services	Council's TUPE Plus policy was a sham because it does not prevent redundancies in the first year and one year protection of terms and conditions is no better than most contractors. Business cases provided limited information and analysis and showed disregard for well-being and interests of staff.
Rejected outright staff secondment option.	DRS, NSO/CSO, LATC/Barnet Group and Parking Service	Secondment option could retain terms and conditions for staff and does not involve transfer to another employer. Helps to retain Council capability.
Trade union involvement in planning and procurement.	All services	Submitted questions, comments and detailed analysis: replies ignore evidence and recommendations.

Barnet Council's poor track record managing contracts

The Council has a poor procurement and contract track record, which raises key questions over its ability to manage contracts that are up to 50 times the size of previous contracts.

The Council's track record includes:

- The £10.3m additional cost of the **Catalyst care home contract** plus £100,000 legal and management costs incurred in the renegotiation of the contract (London Borough of Barnet, 2011a);
- **Fremantle Trust** drastically reduced the terms and conditions of staff in care homes; legionella in three care homes in 2011;
- The £12m **Aerodrome Road Bridge replacement contract** almost doubled to £23m;
- The Council spent £1.36m without a contract with **MetPro Rapid Response**, which "...failed to comply with...Financial Regulations, exposing the Council to significant reputational and financial risks" (London Borough of Barnet, 2011b). The report
- The **SAP (Systems, Applications and Products) project** to modernise the control of payments and purchasing was initially estimated to cost £8m in 2006, but costs spiraled to £25m and many of the promised benefits of automation have not materialized;
- A loss of £1.4m to the Council's pension fund because it failed to notice that the bond for **Connaught Partnership** had expired before it went into liquidation. The Receivers, KPMG, confirmed that unsecured creditors would receive less than one penny in the pound (London Borough of Barnet, 2011c).
- The council is considering terminating the **Greenwich Leisure Ltd (GLL)** contract because the "...planned reductions [£1.2m] to the revenue budgets for 2011/12 and 2012/13 are not achievable due to the contract management fees payable to GLL" (London Borough of Barnet, 2011d). The council admits it has "...an ageing stock of leisure facilities and no long term investment plan" so the cost of repairs to the council could increase year on year (ibid).

These failures were a result of weak client side and poor contract management and failure to monitor contracts; inadequately resourced internal audit and assurance; a lack of recognition of the risks of outsourcing; and ineffective Oversight and Scrutiny and ability to challenge.

Management's failure to implement Audit recommendations

An audit of 20 Barnet internal audit reports for Adult Services reported to the Audit Committee between October 2005 and June 2011 reveal a catalogue of failures in implementing auditing recommendations on procurement, contract management and contract monitoring – see Appendix 2.

They include:

- Failure to implement the recommendations of earlier audits.
- Deferral of follow-up audits.
- Important audits not commenced or the cancellation of audits.
- Failure to address priority recommendations.
- Failure to make assurance opinions.

This is evidence of a systemic failure in Adult Services to fully audit and disclose its contract management and monitoring responsibilities. Furthermore, Adult Services has been commissioning services for many years. Consequently, Barnet Council does not know which contracts are compliant and cannot verify whether they are value for money. Since the Commissioning Council model will increase the number and scope of contracts, these problems could get worse unless there are radical changes in contract management.

The Contract Monitoring and Community Benefit Task and Finish Group recommended that a 'culture of compliance' be developed within the Council and devolved procurement in Adults Social Care and Health, Children's Services and Environment, Planning and Regeneration be centralised (London Borough of Barnet, 2012a).

The report also recommended Delivery & Performance Officers should be in post before the start of a contract and a Performance Advisory Group of six Barnet residents meet quarterly to coordinate and articulate feedback with Procurement Officers. The Group also received evidence on how local economic, social and environmental benefits can be built into contracts, but the social and environmental benefits were omitted from the recommendations.

A Review of the effectiveness of the Audit Committee was reported to the Audit Committee in April 2012 using the Delivering Good Governance in Local Government: Framework, published by the Chartered Institute for Public Finance and Accountancy. The assessment included Internal Audit Process, External Audit Process, Fraud and Internal Control, Financial Reporting and Risk Management (London Borough of Barnet, 2012b).

The review included a self-assessment checklist, and apart from a couple of comments about training and the conduct of meetings, they passed without reference to the key issues raised above or to further failures raised in other reports submitted to the same Audit Committee meeting.

A report on the Contract Procedure Rules concluded:

- 20% of a sample of new contracts entered into since September 2011 either could not be found or had been sent to the provider so compliance could not be verified.
- 10% of a sample contracts recorded as compliant, were found to still be non-compliant. 80% of the sample was regarded as compliant because they "...had received a waiver" (London Borough of Barnet, 2012c)

Another report on contract management in Environment, Planning and Regeneration found:

"...a contract with an annual contract value £30m where progress meetings had ceased since March 2010."

Two contracts with an annual value of under £1.0m that were "...non-compliantly procured contracts....no evidence of quotes being obtained or benchmarking process for comparing prices,no activity (volume) based performance metrics for assessing the efficiency of service delivery.... no formal periodic meeting structures to address overall delivery....both officers responsible for contract management confirmed that they had not been challenged as to contract management arrangements in place either by management or corporate procurement centrally."

"Officers interviewed for 5 of 6 contracts confirmed the lack of a formal contract risk log, documenting risks relating to contractor delivery and performance." Many other serious shortcomings were identified (London Borough of Barnet, 2012d).

It is evident that contract management and monitoring and internal audit and risk management in Barnet Council are fundamentally weak.

Commissioning scorecard

We have assessed the Council's commissioning performance against fourteen criteria that are considered essential to implement commissioning in an effective and sustainable manner – see Table 5. It failed on all the criteria.

Table 5: **Barnet Council's Commissioning Scorecard**

Essential criteria for the implementation of commissioning	Score (X negative, O positive)
Service reviews and improvement plans	X
Rigorous options appraisals with sustainable in-house options	X
Service user and community engagement in service planning & delivery	X
Staff and trade union engagement in service planning and delivery	X
Comprehensive assessment of risks	X
Full economic, social, equalities and environmental impact assessments	X
Evidence based approach including outsourcing performance	X
Sustainable in-house bids	X
Secondment or TUPE Plus for staff	X
Wide ranging evaluation criteria	X
Rigorous contract monitoring and regular contract review	X
Regular audit and implementation of recommendations	X
Staff training in implementation of public service principles and values	X
Selective use of consultants committed to public services and skill transfer	X

These weaknesses and flaws could lead to the breakdown and failure of local government in Barnet.

Part 5

The impact of commissioning

The Commissioning Council model will have a profound impact on local government in Barnet and the Council's ability to meet community needs. The impact of commissioning is examined under ten headings:

- Service users
- Democratic accountability and participation
- Public service planning and management culture
- Council taxpayers and value for money
- Local economy
- Equalities and social justice
- High-risk strategy
- Impact on voluntary sector
- Radical change for Council staff
- Longer-term impact of commissioning

Service users

Market forces will increasingly determine the quality of services: A contract culture and contractual relations will result in a loss of flexibility and responsiveness. An increasing proportion of council services will be bound by contractual agreements that limit both client and contractor scope for action. The 'perfect contract' does not exist, because it is impossible to fully specify service needs and requirements and/or to predict all operational conditions. Thus, most operational changes provide an opportunity for the contractor to legally require additional payment, whilst the client is reluctant to issue variation orders that increase costs and reduce savings.

Getting answers will be more tortuous with the diffusion of decision-making between the Council, contractors and subcontractors: Full and rigorous monitoring could be compromised or overridden by market management objectives. *"Monitoring the cost of managing commissioning is extremely important but at the moment is extremely opaque. The less specificity in contracts, the lower the bidding and transaction costs will be. That can only, in the long term, be good for attracting entrants in particular from small or not-for profit enterprises"* (Institute for Government, 2010). The blame game will get worse as contractors shift responsibility for delays and failures to the Council or to other contractors.

Services users increasingly treated as individual 'customers': Emphasis on complaints systems will make the task of collective responses by community organisations more difficult. Local authorities and contractors will tend to claim the 'superiority' of their 'customer data'. Contractors will, in effect, be an additional organisational layer between service users and community organisations and the policy making process.

Less disclosure: As the procurement process extends to more services, 'commercial confidentiality' will reduce the information and basis of public policy decisions available to citizens and community organisations. Community involvement in procurement will be restricted.

Reduced spending on frontline service delivery: A significant part of service budgets will be needed to pay for procurement, contract management and profits to contractors, which could be at the expense of frontline service delivery.

Democratic accountability and participation

Reduced accountability: There are no proposals to improve democratic accountability. With service planning and service delivery carried out by different organisations, the current difficulties managing contracts are almost certain to be exacerbated.

'New relationship with citizens': There is no indication that a Commissioning Council will increase or improve citizen participation in Barnet. It appears that senior management believe, wrongly, that they only have to claim that outsourcing benefits citizens in order to fulfil the objective. The Council has again failed to detail how this objective will be implemented and to explain how outsourcing will improve participation and citizen-councillor and citizen-client-contractor relations.

In practice, citizens and services users are unlikely to witness any change in their level of involvement in the public policy making process. User interests will be 'at the centre' only in so far as local authority managers and private contractors interpret the needs and priorities of service users.

Less disclosure and extensive commercial confidentiality: There is no recognition that transparency and access to information will be more opaque, or how the level of disclosure the procurement process can be improved. Furthermore, the Council and private contractors are likely to be unwilling to commit to full disclosure of performance to protect political and commercial interests. Commercialising and outsourcing services only makes access more problematic. Backbench Members are likely to have limited knowledge of contractor performance and contracting issues.

More power to officers: The increasing complexity of long-term multi-service contracts gives senior management a dominant role in procurement and is likely to limit the role of Councillors.

Reduced power to influence the local economy: Commissioning is likely to reduce the ability of the Council to create local jobs, influence the labour market, and to ensure local businesses have an equal opportunity to obtain supply chain contracts.

Elected Members are likely to face four key constraints: Firstly, determining value for money will be more difficult, which will be more open to legal challenge. Secondly, have reduced power to change policies and negotiate with providers because of the contracts regime, stand-alone arms length companies and loss of in-house provision. Thirdly, lose a degree of flexibility to respond to Barnet's changing economic conditions and community needs. Finally, they will have to rely on private contractors to implement the Council's corporate policies.

Strategic role will be squeezed: Further pressures to reduce costs coupled with increased demands to manage and monitor contracts, manage market mechanisms and undertake assurance and audit functions will reduce resources for strategic policy making.

Public service planning and management culture

Mixed market: The mixed market is a delusion, because large multi-service, long-term contracts can only be delivered by large organisations. Some companies or organisations, which succeed in winning a contract then become vulnerable to takeover or merger as part of the continuing market consolidation process. Barnet Council has deliberately excluded in-house options and bids (or unacceptable status quo in-house options) and is outsourcing on a mass scale.

Contract culture: A contract culture will dominate Barnet Council. Public service principles and values will be eroded and replaced by commercial values and business practices.

Procurement and contracting mainstreamed: Virtually all services will have to go through a costly procurement process and operate within the terms of a contract.

Run-down of in-house services: In-house services are likely to be run down or sold off. When contracts inevitably fail, the Council will claim that they do not have the capacity to return them to in-house delivery and thus the procurement cycle will be repeated.

Divide client and contractor: The separation of client and contractor functions means that the Council will directly employ only a small core of strategy officers and contract managers. They will plan services, assess options, procure and manage contractors. Commissioning severs the link between those responsible for planning services and those delivering frontline services. It creates a 'them' (contractors) and 'us' (client and strategy managers) division in the management of local government.

Public or private assessment of needs: The commissioning model is designed with a separation between the client's activity of needs assessment/service planning and the contractor's role in delivering services. Needs assessment and service planning is presented as a rationale process which is separate from the competition and market driven provision of services. But needs assessment and service planning has always been restricted by limited staffing resources, which will continue because the client will also be confronted by increased demands for contract management and monitoring.

Furthermore, private contractors delivering services are likely to have an increasing influence in determining needs assessment and service planning. The idea that the two processes are separate and the former will not be shaped by competition and market forces is naive. In addition, private and voluntary contractors, and their consultants, will have a larger role in the 'transformation' of services that will inevitably lead to their imprint on which needs are addressed and how.

Public interest replaced by corporate interest: Mass outsourcing leads to private corporate interests having an increasing influence in public policy making at the expense of public interest. Continued outsourcing leads to the localism agenda being dominated by national and transnational companies.

Commissioning could be outsourced too: The commissioning or client functions could eventually be outsourced to management consultants. Some Primary Care Trusts outsourced commissioning to private companies under the Framework for procuring External Support for Commissioners (FESC) in 2008.

Outcome based commissioning: Although much of the targets and other parts of the performance management regime have changed, the singular focus on outcomes continues. The public sector has always considered inputs, processes, outputs and outcomes to be important, although the emphasis varies from service to service. The quality of inputs, such as trained and experienced staff and the method of service delivery have a significant impact on the quality of service and service user experience and cannot be ignored (see section below on voluntary sector impact). Outcomes are important but measuring public service outcome is difficult, because of the economic, social and other factors that influence outcomes beyond the control of the client or the contractor.

Commissioning skills in short supply: The poor quality of procurement was highlighted in Part 4. There is little evidence that reorganisation of the Council will result in a step change in the skills and experience required to commission services, manage contracts and undertake all the related functions.

Council taxpayers and value for money

Value for money: Value for money and the achievement of savings targets can only be determined if all the costs of commissioning are identified and quantified. Transaction costs such as the cost of options appraisals, business cases, management of the procurement process and use of and advisers must be quantified. The Council has already spent a large part of the £9.2m allocated for One Barnet management consultants and advisers.

Value for money must take account of the significant cost of contract management and monitoring, the cost of market intervention or market support initiatives associated with the

service, the cost of knock-on impacts on other Council services, and changes in the cost of a contract as a result of agreed contract variations over the length of the contract.

Under-estimating client resources: The Council appears to be adopting a ‘thin’ client strategy. Client costs for the CSO/NSO contract are forecast to be 7.7% in year one falling to 6.5% from year three onwards. The Council maintains the 6.5% “...is in line with market norms” and advice from its consultants (London Borough of Barnet, 2012e).

Contract management is already poor. A ‘thin’ or slim-line client side will have a significant impact on the quality of contract monitoring where the contracts are much larger and more complex.

Client costs are usually between 7.0% and 13.0% of a contract value with contract management and monitoring costs account for between 1.0% and 3.0% of contract value (Audit Commission, 2008). Other local authorities have significantly under-estimated these costs in similar projects and had to increase monitoring staff and costs and thus reduce the level of savings.

Under the Coalition Governments NHS reforms, Clinical Commissioning Groups in the South West, North East and London will be larger on average than the Primary Care Trusts (PCTs) from which they take over in April 2013. This is despite the fact that PCTs in the North East and London have been clustered for several years (Local Government Chronicle, 2012).

Commissioning in the NHS

There are significant difference between local government and the NHS, but there are important parallels and lessons to be learnt.

The House of Commons Health Committee investigated the purchaser/provider split in the NHS in 2010:

“Commissioners do not have adequate levers to enable them to motivate providers of hospital and other services.”

Further study is needed “...to motivate providers of services better and a review of contracts to ensure that rigid, enforceable quality and efficiency measures are written into all contracts with providers of health care.”

“...the NHS remains characterised by tensions between purchasers and providers.”

The NHS “...has traditionally scored highly on account of its low cost of administration, which until the 1980s amounted to about 5% of health-service expenditure. After 1981 administrative costs soared; in 1997 they stood at about 12%” By 2005 they were estimated to be “...around 13.5% of overall NHS expenditure” (study by University of York).

“If reliable figures for the costs of commissioning prove that it is uneconomic and if it does not begin to improve soon, after 20 years of costly failure, the purchaser/provider split may need to be abolished.”

(House of Commons Health Committee (2010) Commissioning, Fourth Report of Sessions 2009-10, Vol. 1, HC 268-1).

Reduced capability to return services to in-house provision: The ‘thin’ client strategy could mean that the Council does not have the required capability to return to in-house provision, either by choice or if contracts are terminated. Staff and managers with service delivery skills and experience will be transferred to private contractors and in-house organisational structures will be abolished because they will be no longer required.

Savings overstated: Savings are regularly over-stated. UK research over last twenty years has consistently found average savings to be 6%-8% (studies by Department of the Environment 1993 and 1997, Equal Opportunities Commission 1995, Cabinet Office 1996,

Audit Commission, 2008) with ICT contracts having average 30% cost overruns and contract terminations (European Services Strategy Unit, 2007). Private Finance Initiative contracts are also more costly (House of Commons Public Accounts Committee, 2011). Savings are primarily obtained by reducing labour costs and/or cuts in services rather than innovative ways of delivering services.

Local economy

Commissioning will accelerate job losses: The Council refused to require bidders to make a commitment to deliver services from within the Borough. Some of the Parking Service will operate from Croydon and Legal Services staff are transferring to Harrow. Barnet's claim to be a 'successful suburb' could turn into being the first 'virtual suburb' as Council services are delivered from other parts of Britain or offshore.

Loss of local supply chain contracts: Outsourcing usually results in the severing of local supply chains in the provision of goods and services required in service delivery. Transnational and national companies have their supply chains, and although they might be persuaded to adopt a policy of engaging local suppliers, there is no evidence this approach has been adopted by Barnet Council. Furthermore, outsourcing via large multi-service contracts increases subcontracting and are likely to be established part of the main contractor's supply chain.

'Successful suburb' strategy becomes the first 'contract suburb': The combination of outsourcing, further deep cuts in public spending, continuing job losses and the Council's reduced ability to effect change because of large, long-term contracts, will reduce its ability to improve the local economy and help to generate growth. The Council will cease to be a major employer in Barnet and thus have less ability to influence employment policies via the labour market. Job losses and cuts in terms and conditions have a knock-on effect in the local economy by reducing take-home pay and household spending in shops and local services in Barnet. Research has shown that for every four local authority jobs lost, an additional job is lost in the local economy (Centre for Public Services, 1995).

Equalities and social justice

Fragmented approach: The Council will be dependent on a variety of contractors to implement equalities and diversity policies with consequences for both service users and staff. Equalities and other corporate policies are likely to be differentially depending on the contractor's interpretation of relevance, severity and timing. The full implementation of equality policies requires rigorous and consistent monitoring, but there has been little evidence of this in earlier, smaller contracts. The Council failed to implement the London Living Wage and failed to adequately monitor contracts to comply with the government's Best Value Code of Practice on Workforce Matters between 2003-2011 to prevent a two-tier workforce.

Minimalist approach: Barnet Council has adopted a minimalist approach to Equality Impact Assessment in the Future Shape/One Barnet programme paying little regard to the equalities impact on service users. Matters of equity and social justice do not appear to be regarded as relevant. There is no evidence that the Commissioning Council model will change the councils approach and/or increase its leverage over private contractors in implementing equality policies and practices.

High-risk strategy

Lack of a Risk Register: The reorganisation report should have contained a Risk Register given that it is embarking on significant changes in the structure of the Council, new roles and responsibilities for staff and incurring costs of at least £750,000. The Risk Register should have identified key risks and impacts, proposed mitigating action and risk scores based on probability and impact.

The Council has adopted a high-risk outsourcing strategy. It routinely refused to disclose the operational risks in options appraisals and business cases, either because it had not considered them, or believed that their predetermined option would have been untenable had

they been disclosed. The Council will need to take a much more comprehensive and rigorous approach to assess the impact of outsourcing on service users, staff, other Council services and the local economy, because these impacts often incur additional costs for the Council.

Radical change for Council staff

Most staff will no longer be employed by the Council, but by private or voluntary sector contractors: They face the threat of redundancy, will suffer a loss of job security and transfer between contractors as contracts are won or lost.

The Council will relinquish responsibility for changes in staffing levels, terms and conditions, and the employment practices of contractors: Barnet UNISON has consistently pressed the Council to adopt progressive in-house options, in-house bids, secondment of staff and a TUPE Plus policy to give staff added security. The Council refused all four. It produced its own slightly enhanced version of TUPE, but this only maintained terms and conditions for the first year (which most major outsourcing contractors do anyway) and did not protect against redundancy in the first year of the contract.

Threat to pensions remains: Although the Admitted Body Status pension arrangements will continue under the proposed terms of LGPS2014, private contractors bidding for council services are closing their own defined benefit pension schemes.

Reduced and more fragmented implementation of equalities and diversity policies: Equalities and diversity policies are likely to be implemented at different levels and speeds given the number of outsourced contracts.

Loss of experience in frontline service delivery and contact with service users: Commissioning staff are likely to lose knowledge of frontline service delivery and contact with service users, spend more time managing and monitoring contracts and have less influence as the use of management consultants, legal and technical advisers increases.

Contract culture imposed: Staff will have to work in a contract culture in which public service principles and values are eroded as business practice and commercial values dominate service delivery. The language of the marketplace will replace public service terms, which are intended to change attitudes, priorities and imbed marketisation in the public sector. In addition, public sector resources will be diverted into 'making markets' by shaping contracts to suit business, consult with business interests and be required to design business-friendly regulatory frameworks.

Fragmentation of trade union organisation and representation: The commissioning council model has potentially drastic consequences for trade union branches. Private contractors will employ staff engaged in frontline service delivery, each with their own industrial relations frameworks, leading to fragmented trade union representation. Coordinated collective action will be very difficult to organise and could face legal challenge from contractors. Increasing differences in terms and conditions between contracts is likely to impose more work on Branch Officers, potentially resulting in fewer resources to address wider policy issues.

Impact on voluntary sector

Commercialising voluntary organisations: The commissioning model has a significant impact on voluntary organisations, because it imposes commercial relationships and values and requires them to compete in a market against other organisations and companies. It is speeding up the switch from grant funding to contracting. Meanwhile voluntary and community organisations are being encouraged to compete for public sector contracts, but this is primarily a diversion intended to give commissioning more credibility rather than to strengthen or add value to voluntary and community organisations.

Commissioning is creating divisions between large/national and small/local voluntary organisations in their ability to compete for contracts. Voluntary organisations usually have to establish company structures in order to be 'accredited' to enable them to be shortlisted,

which is increasing their administrative costs. Competition is forcing larger voluntary organisations to engage in ‘partnerships’ with national and transnational companies. They, in turn, are eager to promote their corporate social responsibility and improve their position in the procurement process.

Threatened loss of independence: Many voluntary organisations believe their independence is in jeopardy, because it will be difficult to be both a contractor for the Council delivering public services and simultaneously organise community action and advocate on behalf of the community. Organising for contracting could lead to a change in an organisation’s objectives. In this context, the concept of ‘partnership’ with the Council is flawed.

Involvement in service design and planning: Voluntary organisations that wish to have a role in influencing the assessment of needs and the design and planning of services whilst also being a contractor, will find this dual role difficult. It will be difficult to have a dual role, in effect being both client and contractor. A contractor lobbying for changes in public policy is usually regarded as operating as a vested interest.

Financialisation of commissioning and contracting: The financialisation (introducing tariffs, charges, tolls and converting income streams such as rents to a lump sum capital value) of public services is extending to the commissioning and procurement process via the increasing focus on payment-by-results and social impact bonds (see planned extension of payment-by-results in Part 2). The ability to defer payment, have a higher proportion of contract payments dependent on the quality of outcomes (over which contractors may only have partial control or influence) and accept higher levels of risk imposes severe constraints on voluntary organisations. Bids will require careful preparation to ensure voluntary organisations do not sign up to contracts that are a financial burden.

The government is extending the setting of tariffs (now extensive in acute treatment in NHS hospitals) to mental health and community services, important areas of voluntary sector activity (Cabinet Office, 2010, p16). This could impose further constraints on voluntary sector contracts.

High transaction costs: The objective of a mixed economy or provider market is to increase competition between public, private and voluntary sector providers. However, all contractors win only a percentage of contracts, thus voluntary organisations will have to incorporate the transaction costs incurred in competitive tendering into bids and/or subsidise them from other activities.

Inputs, processes, outputs and outcomes are important to the voluntary sector: Voluntary organisations are being pushed into the ‘outcomes only’ agenda despite the fact that the quality of inputs and the method or process of service delivery are equally important in services provided by the voluntary sector.

Employer responsibilities: Becoming a contractor of public services also means taking on employment responsibilities for the health and welfare of staff and negotiating with trade unions. Taking over contracts where TUPE applies also has additional legal responsibilities.

Squeezed by market forces: The combination of the above factors is likely to cause divisions and conflicts of interest between national and local voluntary organisations. Small organisations are likely to be squeezed by market forces. Meanwhile, commissioners will be focused on managing markets, value for money and budget cuts. The £5bn Work Programme resulted in low level of involvement of subcontractors by the prime bidders in the procurement process, a lack of clarity over expected role and payment, low level of referrals and suspicion of prime contractor ‘cherry picking’ easiest clients, and the transfer of risk down the delivery chain with economic consequences for voluntary organisations (Baring Foundation, 2012).

Longer-term impact of commissioning

There is a distinct lack of consideration of the longer-term implications of commissioning, and the Commissioning Council model in particular, in Barnet Council's reorganisation proposals and in the commissioning evidence in general.

- No 2020 vision other than to increase commissioning in most services;
- No plan to deal with the inevitable consolidation of markets and reduction in competition as a result of takeovers and mergers;
- No Plan B if some services have to be brought back in-house or the Commissioning Council model proves to be ineffective, inefficient and/or too costly.

Little or no flexibility is built into the model, because once in-house service delivery skills, experience and organisational structures are lost they will be more difficult and costly to replace.

Conclusions

1. A very large credibility gap exists between the rhetoric and language of commissioning and what it can deliver in practice.
2. The Commissioning Council model is an experiment; there are no fully operating examples from which to draw lessons.
3. Reorganisation of the Council is being treated as an internal matter, when in fact it has a far-reaching impact. There has been no consultation with council taxpayers, service users, staff and trade unions.
4. Commissioning is another neoliberal model being imposed on the public sector by those who are ideologically committed to the marketisation and privatisation of public services and the welfare state.
5. Contracting out/outsourcing has a long history of failure and high costs – the catalogue of IT contracts and PFI projects are just two examples.
6. The withdrawal of grant funding, contracting, commercialisation and wider use of payment-by-results threaten the vital role and viability of local voluntary and community organisations.
7. The commissioning model is intended to reorganise the Council to permanently reduce publicly provided public services and to make service provision more dependent on markets and private contractors.
8. It is also intended to reduce the ability of the Council to influence the local economy and labour market, to regulate markets and to retreat from responsibility for equalities and social justice.

Part 6

There is an alternative

The alternative to the Commissioning Council model does not require an immediate reorganisation. The Council is under no obligation to conclude the procurement process by awarding a contract. It could prepare a strong case why the bids do not meet local needs and the Council's requirements, value for money and risk objectives and why services should therefore remain in-house.

New transformation

The Council could immediately adopt the service review and improvement process in the Good Practice Transformation Toolkit (Barnet UNISON, 2010) and commit the Council to public service principles and values. This would introduce bi-annual service reviews with improvement plans and regular assessment by Oversight and Scrutiny. If a service were unable to meet performance standards on a continuing basis, a comprehensive options appraisal would be undertaken to identify the full cost and consequences of alternatives.

The draft Corporate Procurement Strategy (Barnet UNISON, 2009) could be implemented together with rigorous management and monitoring of existing contracts to maximise benefit to Barnet citizens and the local economy. Client and contractor functions could be integrated to ensure joined-up provision.

Arms length companies could be returned in-house. The Council could commit to increasing in-house capability. The role of consultants would be minimised and significant knowledge/skill transfer would be a contractual requirement.

Genuine engagement

The Council could engage citizens, community organisations, staff and trade unions in the planning and design of services and improve democratic accountability and transparency with disclosure of information essential to support engagement. It should treat citizens as service users, not customers. The transformation objectives and process would be designed to improve the effectiveness and efficiency of service delivery, enhance the coordination and integration of services and remove unnecessary duplication.

Full impact assessment

All policies and projects would be subject to comprehensive assessment for economic, social, equalities and environmental impacts. The quality of inputs, processes, outputs and outcomes would be built into policies with continuous monitoring and evaluation.

Rigorous monitoring, reporting and reviewing has a key role in improving service delivery, holding service providers to account, assessing employment policies and learning from users and staff about the effectiveness of working methods and processes.

Democratic accountability

Improving democratic governance, accountability, participation and transparency are a key part of this new approach and provide a platform for real collaboration between public services in Barnet.

A less hierarchical management structure, team working, promoting an organisational learning culture, supported by a training programme to build capability and knowhow, could be the start of a new public service management that would radically improve the effectiveness, efficiency and viability of Barnet Council's services.

Appendix 1

Key documents produced by UNISON

The following key documents have been published since autumn 2008 and comprise a comprehensive and rigorous analysis of the Council's One Barnet, easyCouncil and Future Shape policies.

2012

- Impact of a Commissioning Council in Barnet
- The Barnet Group Ltd - Local Authority Trading Company: Privatising Adults and Housing Services
- Proposed Transfer of the Housing Service to Barnet Homes and the Barnet Group
- Assessment of the Customer Services and New Support Services Business Case Update

2011

- Analysis of Business Case New Support & Customer Services Project
- Briefing No. 8: One Barnet Programme Hendon Cemetery and Crematoria – UNISON supports capital investment but not outsourcing
- Briefing No. 9: Greenwich Leisure contract to be reviewed
- Barnet Competitive Dialogue Protocol
- Analysis of Business Case for Local Authority Trading Company
- Analysis of Development and Regulatory Services Business Case
- CSO/NSO Options Appraisal: Trade union response

2010

- Critique of Development & Public Health Services Options Appraisal
- One Barnet Critique
- Critique of Barnet Council's Options Appraisal of Adult Social Care In-House Provider Services
- The Economic Case for In-House Options and Bids
- Future Shape Questions
- Frequently Asked Questions of Barnet Council's Future Shape
- Good Practice Transformation Toolkit
- Briefing No. 7: The impact and performance of management buyouts, social enterprises and mutual models
- Protocol: Service Review, Options Appraisal and Procurement.

2009

- Corporate Procurement Strategy for the London Borough of Barnet
- Future Shape of the Council Comments on Phase 2 Cabinet and Interim Reports
- Future of Hendon Cemetery and Crematorium Implications for Future Shape

2008

- Failure to Assess Options for Future Shape of the Council
- The Flaws in Barnet's Commissioning and Procurement Policy: Future Shape of the Council.
- Briefing Paper 1 - Assessment of strategic hub
- Briefing Paper 2 - Public Service Principles and Values
- Briefing Paper 3 - Employment Charter.
- Briefing Paper 4 - Scope of Contract Reviews
- Briefing Paper 5 - Service transformation
- Briefing Paper 6 - Service delivery models

Available from : <http://www.european-services-strategy.org.uk/publications/public-bodies/transformation-and-public-service-reform/>

Barnet UNISON: <http://www.barnetunison.me.uk/>

Appendix 2

Key Adult Social Services Audit Issues Reported to Audit Committee: October 2005 – April 2012

	Date of Audit Committee	Item No.	Committee Paper Link	Summary of Key Issues
1	10/10/2005	7 Page 3	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200510101900/Agenda/Document%204.pdf	Poor Inter-Agency working under Swift/Performance Management audit.
2	15/02/2006	7 Page 5	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200602151900/Agenda/Document%204.pdf	Follow-up audit shows non-implementation of recommendations on Swift/Performance Management audit.
3	04/04/2006	7 Page 21	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200604041900/Agenda/Document%204.pdf	2005/6 audit review of the Reviewing Team deferred to 2006/7. Follow-up audits planned for the two 2005/6 audits on Procurement and Contract Management and Strategic Planning & Health Partnership.
4	20/06/2006	7 Page 8	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200606201900/Agenda/Document%204.pdf	Direct Payments audit - 14 priority 1 recommendations out of 23 . Contract Monitoring audit – 4 priority 1 recommendations out of 6. Strategic Health Partnership – 3 priority 1 recommendations out of 10.
5	16/11/2006	6 Page 16	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200611161900/Agenda/Document%203.pdf	14 planned audits not started with Adult Social Services , including Direct Payment follow-up, Contract Monitoring follow-up, Strategic Health Partnership follow-up, Homecare audit deferred from 2005/6 etc. – reason Core Remodelling Programme.
6	20/03/2007	11 Pages 11- 13	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200703201900/Agenda/Document%208.pdf	A number of follow-ups included in the 2007/8 Internal Audit Plan – but no trace of Homecare audit or the follow-up of Contract Monitoring audit. Instead of audit type jobs a number of projects set up.
6	28/06/2007	6 Pages 13 & 27	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200706281900/Agenda/Document%203.pdf	Page 13: No Assurance opinion on Learning Disabilities. Pages 27 &28: shows 6 deferred and 8 cancelled audits – Core Remodelling - the main reason.
7	05/12/2007	6 Page 15	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200712051900/Agenda/Document%203.pdf	Page 15: No Assurance opinion on Income and Assessment.
8	19/03/2008	6 Pages 10-12	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200803191900/Agenda/Document%203.pdf	Audit Plan for 2008/9 – only two systems audit reviews within Adult Social Services.

	Date of Audit Committee	Item No.	Committee Paper Link	Summary of Key Issues
10	09/12/2008	6 Page 13	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200812091900/Agenda/Document%203.pdf	Page 13: No Assurance opinion on Customer Billing.
11	10/03/2009	7 Pages 24 - 27	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200903101900/Agenda/Document%203.pdf	Page 24: Internal Audit Plan for 2009/10 includes audit of Procurement. Page 26: Adult Social Services Management refuse 4 Internal Audit recommended audits.
12	29/06/2009	6 Pages 10, 14-18 & 30	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200906291900/Agenda/Document%203.pdf	Pages 14-18: No Assurance opinions for Meals and Telecare Services. Page 30: Cancellation of 3 audits.
13	29/09/2009	8 Page 3	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200909291900/Agenda/Document%204.pdf	Page 3: Management slow in implementing recommendations on Customer Billing.
14	16/12/2009	6 Pages 20-30	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200912161900/Agenda/Document%203.pdf	Pages 20 – 30: No Assurance opinions given for Blue Badge, Appointeeship and Deputyship audits.
15	16/12/2009	10	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/200912161900/Agenda/Document%207.pdf	Adult Social Services Risk Register
16	11/03/2010	11 Page 15	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/201003111900/Agenda/Document%208.pdf	Page 15: Only 3 audits identified for Adult Social Services in Internal Audit Plan 2010/11.
17	21/09/2010	7 Page 5	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/201009211900/Agenda/Document%203.pdf	Page 5: Limited Assurance on Procurement in ASS.
18	24/03/2011	7	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/201103241900/Agenda/Document%203.pdf	Two audits with 'no' assurance opinions reported in the Internal Audit Progress Report.
19	16/06/2011	7 Page 15	http://committeepapers.barnet.gov.uk/Data/Audit%20Committee/201106161830/Agenda/Document%205.pdf	Page 15: Only 3 audits completed for 2010/11 with one No Assurance and two Limited Assurance opinions.
20	26/04/2012	7	http://committeepapers.barnet.gov.uk/documents/s1142/Internal%20Audit%20RM%20and%20CAFT%20Annual%20Plan%20-%20Appdx%20A.pdf	Internal Audit Plan for 2011/12 not submitted to Internal Audit Committee before the commencement of the financial year.

References

- Audit Commission (2008) For better, for worse: Value for money in strategic service delivery partnerships, January, London, <http://www.audit-commission.gov.uk/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/ForBetterOrWorseJan08REP.pdf>
- Barnet UNISON (2011) CSO/NSO Options Appraisal: Trade Union Response, February, London, <http://www.european-services-strategy.org.uk/publications/public-bodies/transformation-and-public-service-reform/barnet-cso-nso-critique.pdf>
- Barnet UNISON (2011) Analysis of Business Case: New Support & Customer Services Project, June, London, <http://www.european-services-strategy.org.uk/publications/public-bodies/transformation-and-public-service-reform/analysis-of-business-case-for-600m-750m-new-support-customer-services-project-london-borough-of-barnet.pdf>
- Brighton and Hove City Council (2010) Creating a Council the City Deserves – a transformation programme, Report to Cabinet, 22 April, [http://present.brighton-hove.gov.uk/Published/C00000120/M00001996/AI00014134/\\$Item209CreatingaCounciltheCityDeserveSATransformationProgrammeforBrightonHoveCityCouncil.doc.pdf](http://present.brighton-hove.gov.uk/Published/C00000120/M00001996/AI00014134/$Item209CreatingaCounciltheCityDeserveSATransformationProgrammeforBrightonHoveCityCouncil.doc.pdf)
- Brighton and Hove City Council (2010) Intelligent Commissioning (A Social and Economic Case) Report Cabinet, Item 209, Appendix 2, [http://present.brighton-hove.gov.uk/Published/C00000120/M00001996/AI00014134/\\$Item209Appendix2.doc.pdf](http://present.brighton-hove.gov.uk/Published/C00000120/M00001996/AI00014134/$Item209Appendix2.doc.pdf)
- Brighton and Hove City Council (2010) Creating a Council the City Deserves – a new organisational structure, Report to Cabinet by Chief Executive, 27 May, Agenda Item 11, [http://present.brighton-hove.gov.uk/Published/C00000120/M00001997/AI00014495/\\$Item11CreatingaCounciltheCityDeserves.doc.pdf](http://present.brighton-hove.gov.uk/Published/C00000120/M00001997/AI00014495/$Item11CreatingaCounciltheCityDeserves.doc.pdf)
- Cabinet Office (1996) Competing for Quality Policy Review, London.
- Cabinet Office (2008) Excellent and Fairness: Achieving world class public services, London, http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/media/cabinetoffice/strategy/assets/publications/world_class_public_services.pdf
- Cabinet Office (2011) Open Public Services White Paper, Cm 8145, London, <http://files.openpublicservices.cabinetoffice.gov.uk/OpenPublicServices-WhitePaper.pdf>
- Cabinet Office (2012) Open Public Services 2012, London, http://files.openpublicservices.cabinetoffice.gov.uk/HMG_OpenPublicServices_web.pdf
- Cornwall County Council (2011) Governance of Alternative Service Delivery, Report by Council Leader to Cabinet, 31 October, Truro. <https://democracy.cornwall.gov.uk/documents/s36455/Governance%20of%20Alternative%20Service%20Delivery.pdf>
- Cornwall County Council (2011) Guidance Note on commissioning and governance in the control of alternative service delivery vehicles owned or controlled by Cornwall Council, Report to Cabinet, 31 October, Truro. <https://democracy.cornwall.gov.uk/documents/s36454/Governance%20of%20Alternative%20Service%20Delivery%20-%20Appendix%201.pdf>
- Department for Communities and Local Government (2008) Creating Strong, Safe and Prosperous Communities, Statutory Guidance, London. <http://www.communities.gov.uk/documents/localgovernment/pdf/885397.pdf>
- Department for Communities and Local Government (2008) National Procurement Strategy for Local Government – Final Report, London. <http://www.communities.gov.uk/documents/localgovernment/pdf/725180.pdf>
- Department for Communities and Local Government (2012) Community Right to Challenge: Statutory Guidance, May, London, <http://www.communities.gov.uk/documents/localgovernment/pdf/2148165.pdf>
- Department of the Environment (1993) Competition and Service: The Impact of the Local Government Act 1988, HMSO, London.

Department of the Environment (1997) CCT and Local Authority Blue-Collar Services, London.

Equal Opportunities Commission (1995) The Gender Impact of CCT in Local Government, summary available at <http://www.european-services-strategy.org.uk/outsourcing-ppp-library/equalities-and-social-justice-impacts/the-gender-impact-of-cct-in-local-government-s/gender-inpact-cct.pdf>

European Services Strategy Unit (2007a) Cost Overruns, Delays and Terminations: 105 outsourced public sector ICT projects, Research Report No 3, <http://www.european-services-strategy.org.uk/publications/essu-research-reports/essu-research-report-no-3-cost-overruns-delays/>

European Services Strategy Unit (2011) PPP Database: Strategic Service-delivery Partnerships, November, www.european-services-strategy.org.uk/ppp-database/

Grant Thornton (2010) London Borough of Barnet: Review of the Governance Arrangements of the One Barnet Programme, September, London.

House of Commons Health Committee (2010) Commissioning, Fourth Report of Sessions 2009-10, Vol. 1, HC 268-1, London.

<http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhealth/268/268i.pdf>

House of Commons Public Accounts Committee (2011) Lessons from PFI and other projects, HC 1201, September, London.

<http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1201/1201.pdf>

Institute for Government (2010) The State of Commissioning: Preparing Whitehall for outcomes-based commissioning,

<http://www.instituteforgovernment.org.uk/sites/default/files/publications/The%20state%20of%20commissioning.pdf>

Institute for Government (2012) Testing New Commissioning Models: A guide to help policy makers learn about publically funded markets, London.

<http://www.instituteforgovernment.org.uk/sites/default/files/publications/Testing%20new%20commissioning%20models.pdf>

Local Government Chronicle (2012) Commissioning groups to be larger than former trusts, 6 June, London.

Local Government Group (2011) Understanding commissioning: A practical guide for the culture and sport sector, June, London, http://www.local.gov.uk/c/document_library/get_file?uuid=8d813f21-314e-4b63-8f6d-dccea746ac4a&groupId=10171

London Borough of Barnet (2011) Care Home Contract – Final Decision of Catalyst Housing Arbitration, Report to Cabinet Resources Committee, 2 March, London,

<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201103021900/Agenda/Document%204.pdf>

London Borough of Barnet (2011a) Catalyst Care Home Contract Renegotiation, Report to Cabinet Resources Committee, 7 November, London,

<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201111071900/Agenda/Document%206.pdf>

London Borough of Barnet (2011b) MetPro Rapid Response Internal Audit Report, Report to Audit Committee, 16 June, London,

<http://barnet.moderngov.co.uk/Data/Audit%20Committee/201106161830/Agenda/Document%204.pdf>

London Borough of Barnet (2011c) Update on admitted body organisations issues and revised monitoring arrangements, Report to Pension Fund Committee, 22 June, London,

<http://barnet.moderngov.co.uk/Data/Pension%20Fund%20Committee/201106221900/Agenda/Document%207.pdf>

London Borough of Barnet (2011d) Leisure Contract Review, Report to Cabinet Resources Committee, 27 September, London,

<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201109271900/Agenda/Document%2013.pdf>

London Borough of Barnet (2011) Adults' and Children's Services Contracts, Report to Cabinet Resources Committee, 7 November, London,

<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201111071900/Agenda/Document%208.pdf>

London Borough of Barnet (2011) Replacement of cremators, building works, renovations and compliance with mercury abatement legislation at Hendon Cemetery and Crematorium, Report to Cabinet Resources Committee, 27 September, London, <http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201109271900/Agenda/Document%208.pdf>

London Borough of Barnet (2012a) Contract Monitoring and Community Benefit Task and Finish Group – Draft Report, Report by Scrutiny Office to Business Management Overview & Scrutiny Committee, 29 February, London, <http://barnet.moderngov.co.uk/Data/Business%20Management%20Overview%20and%20Scrutiny%20Committee/201202291900/Agenda/Document%209.pdf>

London Borough of Barnet (2012b) Review of the effectiveness of the Audit Committee, Report by Internal Audit & Risk Management to Audit Committee, 26 April, London, <http://barnet.moderngov.co.uk/documents/s1156/Review%20of%20Audit%20Committee%20Effectiveness%20-%20Appdx.pdf>

London Borough of Barnet (2012c) Internal Audit Report Contract Procedure Rules – April 2012 Report, Report of Commercial Director to Audit Committee, 26 April, London, <http://barnet.moderngov.co.uk/documents/s1159/Procurement%20Controls%20-%20Report.pdf>

London Borough of Barnet (2012d) Draft Internal Audit Report: Contract Procedure Rules, Internal Audit Service, Audit Committee, 26 April, London, <http://barnet.moderngov.co.uk/documents/s1160/Procurement%20Controls%20-%20Appdx.pdf>

London Borough of Barnet (2012e) New Support & Customer Services Organisation: Business Case Update and Shortlist for Dialogue 2, Report of Cabinet Member for Resources and Performance and Cabinet Member for Customer Access and Partnerships to Cabinet Resources Committee, 28 February, London, <http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201202281900/Agenda/Document%203.pdf>

London Borough of Barnet (2012) Re-organisation of the Senior Officer and Council Structures, Report of Chief Executive to General Functions Committee, 23 April, London, <http://barnet.moderngov.co.uk/documents/s1115/Item%206.pdf>

London Borough of Barnet (2012) Internal Audit & Risk Management Progress Report 2011-12 – Quarters 3 & 4, Report by Audit and Risk Management to Audit Committee, 26 April, London, <http://barnet.moderngov.co.uk/documents/s1144/IA%20Progress%20Report%20Quarter%203%20and%204%20-%20Report.pdf>

London Borough of Barnet (2012) Barnet's Leadership Framework, Summary, May, London.

London Borough of Barnet (2012) More Senior Management Review FAQs, undated, London.

London Borough of Barnet (2012) Proposed Organisational Structure, Summary, presentation, 3 May, London.

National Coalition for Independent Action (2011) Voluntary action under threat: what privatisation means for charities and community groups, May, London, <http://www.independentaction.net/wp-content/uploads/2011/06/NCIPrivatisation-paper2011.pdf>

New Philanthropy Capital (2012) When the going gets tough: Charities' experiences of public sector commissioning, May, London, <http://www.philanthropycapital.org/download/default.aspx?id=1198>

The Baring Foundation (2012) Protecting Independence: The Voluntary Sector in 2012, London, <http://www.baringfoundation.org.uk/ProtectingIVS2012.pdf>

The National Endowment for Science, Technology and the Arts (2012) The Art of Exit: In search of creative decommissioning. London, <http://www.nesta.org.uk/library/documents/ArtofExit.pdf>

Whitfield, D. (2006a) New Labour's Attack on Public Services: Modernisation by Marketisation, Spokesman Books, Nottingham.

Whitfield, D. (2012) The Payments-by-Results Road to Marketisation, in Critical Reflections: social and criminal justice in the first year of Coalition government, Centre for Crime and Justice Studies, March, pp22-23. <http://www.crimeandjustice.org.uk>