



Terminate Capita Contracts and Redesign the Council



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The **European Services Strategy Unit** is committed to social justice, by the provision of good quality public services by democratically accountable public bodies. The Unit continues the work of the Centre for Public Services, which began in 1973. Research and strategic advice for public bodies, trade unions and community organisations includes analysis of regional/city economies and public sector provision, jobs and employment strategies, impact assessment and the effects of marketisation, privatisation, public private partnerships and transformation.

Terminate Capita contracts

Capita performance

A summary of Capita's Customer Support Group (CSG) and Regional Enterprise (RE) contract performance and The Barnet Group (TBG), the Council's Local Authority Trading Company, reveals:

- Significant overspends by CSG and RE in 2017-18.
- CSG, RE and TBG failed to meet 38%, 9% and 23% of targets respectively.
- Performance worsened in CSG, RE and TBG by 31%, 41% and 50% respectively.
- 13 out of 15 failed CSG targets and 4 out of 6 RE targets significantly under-achieved.
- Capita's performance five years into ten-year contracts gives little, if any, ground for optimism that they can achieve significant improvements in the next five years.

Table 1: Capita contract performance

	Green	Green Amber	Red Amber	Red	Improved same	Worsened	Overspend revised budget 2017-18
CSG	54%	8%	0%	38%	69%	31%	£5.45
RE	82%	9%	0%	9%	59%	41%	£6.7m
TBG	71%	6%	0%	23%	50%	50%	n/a

Source: End of Year 2017-18 Contracts performance Report, 2018

The numbers conceal a list of core back office services that frontline staff depend on to deliver effective and efficient services.

Table 2: Targets not met by CSG and RE contracts

Customer Support Group (CSG) Contract Indicators DID NOT MEET TARGET	
Percentage of customers who rate the website as good	User satisfaction - Estates
Payroll accuracy – payroll error rates	User satisfaction - Finance
Budget forecasting - % variance to budget	Commissioner satisfaction - IT
External audit complete	Commissioner satisfaction – HR
Resident satisfaction – staff respond quickly when asked for help	Commissioner satisfaction - Procurement
User satisfaction - IT	Commissioner satisfaction - Estates
User satisfaction - HR	Commissioner satisfaction – Finance
User satisfaction - Procurement	
Regional Enterprise (RE) Contract Indicators DID NOT MEET TARGET	
Prosecution and direct action	Highways Category 2 defects rectification timescales completed on time
Unit cost of disabled adaptations	Insurance investigations completed on time (14 days)
Highways Category 1 defects rectification timescales completed on time (48 hours)	Customer satisfaction in development and regulatory services

Source: End of Year 2017-18 Contracts performance Report, 2018

Barnet UNISON report on Future Shape, easyCouncil and One Barnet

This report detailed Capita's poor contract performance since 2013 including a series of Internal Audit findings revealing high and medium risks in Accounts Payable, Accounts Receivable, Transformation Programme, Health and Safety, IT Change Management Review, Benefits Realisation and the Highways Programme dating back to 2015.

The cost of commissioning increased a staggering 356% in the four years between 2014-15 and 2017-18.

Capita's continuing financial crisis means that they will have an even stronger focus on extracting profit from existing and new contracts, which has very significant implications for Barnet service users, staff and the Council.

The report revealed the performance record of similar contracts in other local authorities which shows a track record of 19.4% of contracts being terminated, Councils had returned 7.5% of contracts for some services in-house and 3.0% experienced significant problems, an overall performance rate of 30% which is extremely poor. It also discussed the grounds for, and the relatively low cost of, termination.

Gain sharing

The Capita contracts permit gainshare between the Council and Capita when certain benefits are achieved. Capita received £8.3m gainshare over the four-year period 2013-14 to 2016-17. A £1.26m gainshare payment was paid on the Comensura interim and agency staffing contract, £500,000 on the London Highways Alliance road repair contract and £313,000 saving on gas and electricity. In effect, Capita is receiving payments for arranging subcontracts which could be negotiated by Barnet Council through normal procurement procedures.

Fraud Case

A RE employee appeared at Willesden Magistrates' Court on 3 July 2018 on two separate fraud charges totalling over £2m. The case was referred to Harrow Crown Court for a further hearing on 31 July.

Failure to publish audit

“An increasing number of high risk and medium risk findings relate to the financial management practices in place at the Council, specifically those around income and expenditure monitoring. A failure of the control environment around financial management could significantly exacerbate the already extensive financial pressures on the Council and increases the risk of fraud. A significant internal fraud issue was identified at the Council during 2017/18; a criminal investigation is ongoing in relation to this matter but it highlights the risks that can crystallise if the lines of defence are not appropriately designed or operating as intended.”

(Source: The London Borough of Barnet, Annual Internal Audit Opinion, 2017/2018, <http://barnet.moderngov.co.uk/documents/s47416/Appendix%20-%20Annual%20Internal%20Audit%20Opinion%202017-18.pdf>)

The above extract from the Internal Audit report paints a worrying picture of the systemic failures that are contributing to the well-publicised financial crisis the Council is facing. Despite the rhetoric the outsourcing strategy that was designed and promoted by senior officers and expensive consultants has not delivered the outcomes they so confidently predicted. The concerns that Barnet UNISON raised

about the thin client were discounted. Our concerns about the ability of the Council to effectively manage contractors were also dismissed. Yet over the past five years we have seen a dramatic increase in the size of the client side along with unacceptable and alarming dependence on use of agency staff/consultants to levels unimagined in 2011/12 when the spend was circa £7.8 million. In the last few years expenditure has escalated to circa £18 million.

It was not just costs that Barnet UNISON warned would suffer. We argued that quality would be impacted not just on the outsourced, but the in-house services.

Back office services are sometimes much maligned because they are not viewed as important as frontline. Yet they are a critical part of any organisation, public or private. We argued that by adopting the outsourcing model it would have an impact on delivery as silos would be strengthened not broken down.

The Internal Audit Report reflects what is fundamentally wrong. The Council is imploding. The outsourcing of silos has not worked and it is having a direct impact on in-house services.

This is no longer opinion, it is in the Council's Internal Audit report - see the following extracts:

"There has been a significant increase in the percentage of audit reports receiving an overall rating of "limited" (from 11% in 16/17 to 25% in 17/18), and a corresponding decrease in the percentage of audit reports receiving a "reasonable rating" (from 78% in 16/17 to 61% in 17/18). This represents a clear weakening of the control environment at the Council."

"Internal audits undertaken during the period, including audits of key financial systems, demonstrated a weakening of the financial control environment. This included a number of areas where evidence could not be provided to confirm that basic fraud prevention controls were operating including segregation of duties for transaction approvals and reconciliations, proactive review of areas with a high fraud risk due to value or known issues, and user access to the key financial system of Payroll."

"Non-schools payroll - The payroll system access report was not regularly reviewed to ensure that access has only been granted to appropriate members of staff. Additionally, the overtime payments process was manual and as a result, payroll staff were not able to access details of the manager who approved an individual's overtime payment, increasing the risk of payroll processing invalid or fraudulent payments."

"Pensions Administration - Contract monitoring meetings held to monitor the pension administration section of the CSG contract were not formally recorded by the Council and employer targets for the scheme administration strategy are not monitored. There was no scheme communication strategy or agreed fund administration strategy in place during the period under review."

"Water Safety - A lack of formal training for premises coordinators around legionella testing was noted."

"Transformation - The Way We Work - While a benefits tracker is in place which clearly outlines the key benefits of the programme, there was not yet a breakdown of key milestones for each benefit, benefits monitoring was not yet taking place at a project level, and not all benefits had clear links between benefit description, baseline, measurement method and target. The review date within the assumptions log had not been filled in for the Office 365

project, and as such there was no evidence that these assumptions had been reviewed since they were first identified. Only five changes were recorded in the change log for the programme. Given the complexity and size of TW3 and the many known changes since the programme's inception, this indicated that the change log is not being consistently used to record changes to the programme scope and budget and the agreement of these changes.”

“Issues were noted by internal audit with the extent to which statutory and internal deadlines for activity were met, increasing the Council’s potential liability for additional fees and charges, and legal sanctions and reducing the extent to which its own enforcement activity can be carried out. We noted issues with the performance of key employment checks including DBS and right to work checks, which could lead to fines, legal action and reputational damage. Key health and safety checks relating to water safety were not carried out in line with required statutory timescales. In a number of areas including some key financial systems, we noted that policies and procedures were not consistently in place or regularly updated. Policies and procedures are a basic pillar of a functioning control framework. Where they are missing or out of date, this indicates that the control environment has not been regularly reviewed and updated to mirror changes in local or statutory approaches to service delivery.”

“Eligibility to Work - Pre-Employment Checks (Non-Schools) - We noted several anomalies in the DBS data provided to us for review. In some cases HR were unclear as to whether the post required or did not require a DBS check or of the DBS level required. In other cases, no DBS certificate reference was held. As a result, it was not clear whether all staff have the required DBS clearance. CSG Management also confirmed that there were no central, consistent arrangements for logging or following up Home Office right to work (RTW) approvals approaching expiry because RTW data is not held on the Core HR system to support the necessary reporting. The Council can be fined £20,000 by the Home Office per illegal worker. Pre-employment checks, covering identity checks (proof of address), DBS checks, National Insurance checks, reference checks and qualification checks (generally the responsibility of the relevant Council manager) were not undertaken consistently.”

“While it looks like the 2017/18 outcomes are similar to 2015/16’s, if ratings were assigned on the 2015/16 basis, the number of “limited” reports in 2017/18 would increase to 12 (43% of rated reports), which represents a significant deterioration from 2015/16 in real terms.”

(Source: The London Borough of Barnet, Annual Internal Audit Opinion, 2017/2018, <http://barnet.moderngov.co.uk/documents/s47416/Appendix%20-%20Annual%20Internal%20Audit%20Opinion%202017-18.pdf>)

However, there is a more serious matter that members of Policy and Resources must consider as decision makers. It is the Grant Thornton report referred to in the Report of Chief Executive, Audit Committee, 17th July 2018.

“1.17 The Council subsequently employed Grant Thornton UK LLP (GT) in January 2018 to undertake a detailed review to fully understand and document the fraud itself through a forensic review, identify the reasons that the alleged fraud could occur, including weaknesses in the control environment and to identify lessons learned. The Council engaged an

external provider as this ensured that the circumstances around the alleged fraud were the subject of an independent review, as well as adding capacity.

1.18 The Grant Thornton report is attached at Appendix 1. It is currently in draft form to allow Capita a period of time to review and comment on its accuracy. As the report contains financial and business information about Re and Capita and Capita has not yet had an opportunity to provide comments on its contents, it is not in the public interest to publish it at this stage. This report and further reporting information from the Grant Thornton review will be finalised over the next few weeks and months and it is intended that these will be presented to Audit Committee and any other relevant Council committee in the Autumn 2018.”

(Report of Chief Executive, Audit Committee, 17 July 2018

<http://barnet.moderngov.co.uk/documents/s47427/Report%20of%20the%20Chief%20Executive.pdf>)

It is important that all relevant facts are made available to the decision makers before any decisions are made. The Grant Thornton report has been deemed not in the public interest for the time being. It goes on to say:

“This report and further reporting information from the Grant Thornton review will be finalised over the next few weeks and months and it is intended that these will be presented to Audit Committee and any other relevant Council committee in the Autumn 2018.”

The assumption is that the information in the report will be published. In which case it is imperative that before decisions can be made the contents of this report are published even if this means reconvening another emergency Policy and Resources Committee. It should be published now to ensure:

- Transparency in the accountability of public funds;
- Public money is being used effectively and the Council is getting value for money when purchasing goods and services;
- The Council’s commercial activities – including the procurement process – are conducted in an open and honest way;
- The protection of the public.

Finally, there is a very real and serious risk if decisions are made without the Grant Thornton report being published that there could be a judicial review.

Furthermore if the content of the Grant Thornton report were in any way critical of the contractor and the failings of commissioning it would quite rightly question the integrity and robustness of any decisions that supported Option 1 or 2 being put before Policy and Resources Committee on Thursday 19 July 2018.

Capita failure to deliver Adult Social Care IT system

The Adults and Communities Investing in IT Programme was established to deliver a new IT system that supports the legislative requirements of the Care Act 2014, which came into effect April 2015, and replace out-date systems.

Capita were commissioned by the council in September 2014 to deliver a fit for purpose Adult Social Care IT system that was originally due to go live in April 2015 but was delayed by two years. *“... implementation has involved significant issues which have critically affected the system’s performance”* (London Borough of Barnet, 2018h).

"Go-live was achieved on the 3 April 2017 but unfortunately the system as it is currently configured is still not fully fit for purpose and has not achieved all the intended programme outcomes" (ibid).

"The commercial teams of the council and Capita have agreed to the principle that the most effective way to deliver a fit for purpose system is for the council to engage with an alternative provider to undertake the rest of the required implementation work" (ibid).

The Council is seeking approval for a procurement process for a new delivery partner at a cost of up to £3m. But the full cost is expected to be £4.2m and negotiations are in progress *"...between the council and Capita's commercial teams about the funding of the additional work required. There are differences in views on who should pay for the £4.2m costs" and "...it is anticipated that there will be up to £1.2m of council resourcing costs and up to £3m of third party costs" (ibid).*

This Capita failure raises important questions:

"Who pays for the procurement and the new contract and wasted officer hours securing a new service provider?"

"How can Barnet Council continue to support Option 2 below which seeks to keep Capita delivering IT services?"

Council options review for future of the Capita contract

The Council is proposing a Strategic Outline Case that will consider three options:

1. to maintain the status quo in relation to the Customer Support Group (CSG) and Development and Regulatory Services (DRS) contracts;
2. to return some services to in-house provision;
3. terminate both contracts.

The brief assessment used three aims - high quality services, value for money and strategic control - and rated each option as medium, high/medium and low for each achieving each aim.

In what can only be described as a crude and simplistic assessment the Council *"...concludes that option 2 best meets the council's objectives and recommends that a Full Business Case is developed to test this conclusion"* (London Borough of Barnet, 2018g). In fact, there is no basis whatsoever for this conclusion.

The Council plans to examine *"...the delivery of corporate programmes, which is currently commissioned through the special projects process and funded from the transformation reserve" and the "...financial model associated with procurement, with particular focus on the options to reform the current gainshare mechanism"* (London Borough of Barnet, 2018g).

Our earlier report on the failure of the One Barnet programme emphasized the fact that the CSG and RE contract reviews were not financial audits. Evidence of the contractual payments revealed that **"...Capita had received an additional £112.34m for both contracts only 4.75 years into the 10-year contracts, a figure that exceeds the forecast savings by £26.37m!"** (Barnet UNISON, 2018). As noted above, Capita obtained £8.3m from the gainshare mechanism between 2013-14 and 2016-17

We strongly recommend that Barnet Council immediately terminates both Capita contracts and closes The Barnet Group and returns the services to a redesigned Council.

Redesign the Council

We urge the Council to radically redesign the way services and functions are carried out which should include:

1. Integrated services

Abolish commissioning and replace it with the integration of client and provider functions to work in combined teams. Improved frontline intelligence and skills will improve the planning and delivery of services. The return of CSG back office and Regeneration services in-house, together with the Housing Service and Your Choice Barnet as a result of the abolition of the arms-length The Barnet Group, provides an opportunity to create genuine coordinated and integrated services and functions. This will also provide the potential to fundamentally improve the integration of services and capability of the Council to meet residents' needs and improve the local economy.

2. Rebuild the council's in-house capability and capacity

The Council urgently needs to refocus on rebuilding in-house capability and capacity combined with a drastic reduction in use of consultants and agency staff, both of which are very costly and lead to a spiralling loss of capability. A commitment to public provision, training and career development will be vital in attracting staff. The entirely predictable consequences of the mass outsourcing strategy are reflected in the £24m cost of management consultants and One Barnet programme costs and the £20m spent in 2016-17 alone on interim and agency staff.

3. Service planning with staff and service user participation

A new transformation strategy should be centred on Public Service innovation and improvement Plans, prepared with community and staff involvement and reviewed every four years. The Plans will contribute to the design and digitisation of council services to meet the needs and aspirations of Barnet residents and the local economy. They will ensure that services are effective and efficient and cost a tiny fraction of the budget spent on consultants and the One Barnet programme.

4. Early development and intervention

Rigorous, comprehensive and consistent monitoring and scrutiny of services will not only directly contribute to innovation and improvement, but will also increase the effectiveness and efficiency of service provision. It has an important role in identifying situations where services and users require early support which prevents longer term negative consequences and costs.

5. Value inputs, processes, outputs and outcomes

All four are an integral part of the quality of public services and thus must be taken into account in policy and decision making. Furthermore they are an important part of determining the impact of Council policies on the local economy.

6. Social, economic, equality and environmental impact assessment

Austerity policies have imposed severe financial constraints on local authorities which have reinforced the dominance of 'cost savings' and on procurement, competition and market forces. There is significant evidence that savings are rarely achieved when a full public audit is undertaken. Furthermore, ignoring or marginalising the social, economic, equality and environmental impacts of public policies increases inequalities, poverty and imposes larger longer-term costs. It is essential that public policy decisions in Barnet are subject to a full impact assessment that is publicly available at the start of public participation.

7. Improved democratic accountability, participation and transparency

The above proposals require more open accountable and participative democratic processes not just to evidence 'community consultation' but to demonstrate that views and proposals have been fully taken into account and any negative impacts mitigated.

8. Joint working with other public sector organisations

Joint working and, in some cases, pooling of budgets is vital where Council services are part of a wider and more comprehensive policies and projects such as regeneration and social care.

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