

# **UNISON** response to

# **Cabinet Resources Committee**

**14 December 2011** 

Development and Regulatory Services Project: Business Case Update and Shortlist for Dialogue 2

#### **Barnet UNISON**

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#### 14 December 2011

### 1. Quality and integrity of the Business Case

We note that the Council commissioned Internal Audit to carry out a review of the DRS business case. The report was entitled "Business Case – Development and Regulatory Services Project, **July 2011**"

UNISON believes that not all Internal Audit recommendations have been applied to prepare the business case. For example the report is silent on net present value calculations, effects inflation, whether RPI or CPI, any VAT implications, detailed VFM assessment. There is also no mention of a Gateway review of this business case.

Having read the report (Appendix A) UNISON is pleased to note that the review established the following risks:

**Risk:** "Where information is presented separately to the Business Case there is a risk that key stakeholders may not have all information pertinent to decision making and scrutiny functions."

**Audit Recommendation:** "Business cases for projects of this size should be prepared in a consistent format with all relevant disclosures and signposting of relevant information linked to the standard five cases model, or Council approved methodology."

"It is accepted that the business case is not considered final until the completion of the dialogue process, as such there were a number of areas that we reviewed that will need further expansion through that process. These include:

- Agreeing specific objectives with the strategic partner
- Calculating Net Present Values
- Consideration of opportunity costs
- Updating some of the financial assumptions used, for example
  - Having a clear audit trail from the benchmarking data and other information to the percentages of growth and cost savings
  - Analysis of interdependency between expenditure and revenue to support the calculation of the overall financial benefits of implementing change
  - References to previous service reforms to support expected income growth and cost savings"

**Risk:** "Where a business case is being developed throughout the procurement process there is a risk that the required benefits may not be realised if they are not adequately described within the business case."

Audit Recommendation: "Where assumptions are being revised through the procurement process a transparent process should be developed to update key stakeholders."

**UNISON Recommendation:** This business case should be **urgently referred** to Internal Audit in order to establish if this business case is fully compliant with their own recommendations as set out in their report entitled "Business Case – Development and Regulatory Services Project, **July 2011**"

#### 2. Effective Competition from bidders

The following risks are highlighted on page 6 of the report under **Risk Management Issues** report 4.1

"**Risk**: LBB appoints a bidder who is financially insecure, or doesn't meet our stated financial assurance minimums for the award of contracts.

**Mitigation**: All bidders will be subject to financial monitoring throughout the project. The council will run credit checks on, and will ask for financial statements from any bidder at any time during the process.

**Risk:** If LBB brings 3 bidders into the second stage of dialogue, there is a high level of risk that, due to the cost of the process and only having a 33.3% chance of winning, a high-quality bidder will withdraw from the process, leaving a weaker bidder in play against a much stronger one. This will reduce the DRS project's ability to meet the OGC requirement for "sufficient competition" in the dialogue process. The requirements state that a process must have more than one credible bidder.

**Mitigation:** The DRS project board will recommend to CRC that the council shortlists to 2 bidders in the second dialogue.

**Risk:** If LBB brings 2 bidders into the second stage of dialogue, there is a risk that if one bidder withdraws from the process the council will be left with only one bidder (or the possibility of lack of competition in the process).

**Mitigation:** LBB can endeavour to seek agreement from bidders that in the event that we down select to 2 bidders the third bidder is held as a "reserve" who is then invited to re-commence participation in the competitive dialogue should one of the selected bidders withdraw. OGC guidance stated that if a bidder withdraws "the Contracting Authority should consider the strength and quality of the remaining bidder and consider the extent to which the competition up to that stage has been able to demonstrate value for money". If LBB can show this, OGC regulations would allow us to continue the process with the remaining bidder as long as we ensured sufficient competition in the supply chain."

**UNISON Recommendation**: In light of a number of high profile companies that have recently gone into financial difficulties, we believe simple "**credit check**" is insufficient mechanism to insure **robust** due diligence. Further details of what constitutes comprehensive due diligence needs to be adopted formally as part of the One Barnet Programme and made public as part of the Transparency Agenda.

UNISON does not understand the logic that by including a **weak bidder** to the competitive dialogue they will become an **effective influence** for the other bidders to produce a competitive bid. Surely by the **third bidder** being placed on the reserve list openly **exposes** the **weakness** of that bidder. This recommendation by the fact it is now in the public domain **heightens** the **risk** of bids **not delivering** a competitive price the Council is expecting.

We recommend that investment in a new <u>funded</u> innovative in-house solution should be included in order to provide <u>real competition</u> for Bidders.

#### 3. Pension Windfall

The Business case in Paragraph 9.14 states

"The bidders were given a rate of 17.7% for employer contributions towards staff pensions, a figure that assumes no deficits. However, the council's superannuation rate is 24.8% as it has existing deficits to clear. In order to ensure a fair comparison, the employee cost within the services was reduced by £453,000."

Whilst establishing costs bidders will be allowed 17.7% for employer contributions towards staff pensions (for future benefits). It is our experience that over the life of an outsourced contract with a 'Closed ABS' there is a **60-80% turnover** of staff, meaning they leave the Pension Fund. This will mean a **significant saving** for the contractor who would have been paying their Pension contributions

**UNISON Recommendation:** The report should clarify as to who will benefit from this turnover and establish what arrangements Barnet will put in place to recover these significant savings.

### 4. Equalities Issues

The Business case in paragraphs 5.2, 5.3. and 5.6.1 state the following

"Both of the shortlisted companies have demonstrated an understanding of the Equality Act 2010, however it is not possible to publicly disclose any details about the bidders' submissions due to the rules governing procurement and commercial confidentiality.

The Council accepts that DRS project will have a significant impact both upon staff and other stakeholders. As a result an equality analysis will be undertaken at preferred bidder stage. The results of this analysis will be presented to members at a future date."

The staff equalities impact assessment carried out at the start of the DRS project was reviewed against the bidders' submissions. No significant issues were found."

What is "commercially confidential" about showing an understanding of Equalities issues?

It is unacceptable to state that there will be no equalities issues from the bidder's submissions when we know from the contract procurement document about the ability for bidders to near and off-shore work; this will necessarily adversely impact on those people who are less able to move to another location.

**UNISON Recommendation:** Further time and money should not be spent on the competitive dialogue process without a clear equalities impact assessment. The equalities issues should be considered ahead of the commencement of Stage 2 of the dialogue process to ensure that the proposed direction bidders are taking services is suitable.

### 5. Cost Savings

The Business Case fails to provide a clear rationale for the projected saving percentages for each of the services included in this bundle of services.

For example the projected savings from **Development Management** (DM) is 20 % this looks extremely high, especially when compared with other service areas. DM already operates at the lowest cost level, as per the benchmarking exercise. In Barnet Planners have workloads that are **significantly** higher than comparable authorities and also higher than the case loads recommended by the Royal Town Planning Institute.

A 20% cut would see the quality of the service decimated!

**UNISON recommendation**: The Business Case should provide evidence to explain the target percentages for cost reduction for each of the services included within this bundle.

#### 6. Income generation forecasts

We repeat our concerns that the figures for income generation are increasingly optimistic and lacking any evidence to support income projections.

The full range of operational risks have still not been identified. The risks on page 33 are all procurement risks. Whilst the paragraph on procurement strategy on page 34 makes a brief reference to service delivery, it is imperative that the full range of operational risks are identified, allocated and assessed in the Business Case and reported to Elected Members. The recently announced termination of the Sefton MBC strategic partnership with Capita Symonds for architecture, engineering, property and highway services serves to demonstrate these risks. Furthermore, the performance ratio of over 20% for terminated, reduced and major problems in 48 strategic partnerships is further evidenced <u>http://www.european-services-strategy.org.uk/ppp-database/</u>

The business case is silent on the effects of worsening global, regional, national and hence the local economic conditions which may force Council to bring down parking charges to revive town centre business activity in the future.

**UNISON recommendation:** The Business Case should provide evidence to explain the target percentages income targets for each service included within this bundle. Furthermore it must provide a clear view of the effects of economic conditions affecting the services in the bundle.

### 7. A 2.5% retained cost of client

In paragraph 9.14 it states

"2.5% of service costs were deducted from the indicative revised gross expenditure figure in order to account for the commissioning council (client side). This has been revised from the previous figure of 7.5% as it is expected that the balance required to undertake regulatory functions will be met by the provider."

This figure has been revised downwards from **7.5%** in the original business case (page 20), we believe it significantly **under-estimates** the cost of the client function. The Audit Commission has estimated the monitoring costs alone of strategic partnerships to be between **1% - 3%**. The Council is assuming minimal monitoring costs and a minimal client function. The section on contract monitoring (page 38) does not attempt to identify monitoring costs.

**UNISON Recommendation**: Given the recent catalogue of high profile **poor procurement and contract monitoring in Barnet**, the 2.5% figure needs urgent reexamination.

#### 8. Hendon Cemetery and Crematoria

The Business Case fails to justify outsourcing this service which already generates significant income to the Council. UNISON's view is that '**Outsourcing'** will have two consequences:

1. Net profit, £462,000 in 2010/11, will be considerably reduced because the private operator will extract a 6% - 12% basic profit on the £679,000 operating cost. In addition, the main contractor will impose a subcontract 'management' fee. **Council revenue could fall by at least £100,000 per annum.** 

2. The Council and/or the contractor could seek to increase fees, but this would be widely resisted by Barnet residents.

**UNISON recommendation**: The Business Case should provide a robust analysis to justify outsourcing otherwise this service should be removed from the bundle.



# London Borough of Barnet

## **Draft Internal Audit Report**

## Business Case – Development and Regulatory Services Project July 2011

Distributed to: Andrew Travers – Deputy Chief Executive Craig Cooper – Director of Commercial Services Claire Johnston – One Barnet Programme Manager

Timetable	
Terms of reference	March 2011
Fieldwork completed	April 2011
Draft report issued	May 2011
Management responses	June 2011
received	
Final Report Issued	July 2011

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### 1. Executive Summary

Introduction	As part of the 2010/11 Internal Audit Plan, agreed by the Audit Committee on 11 <sup>th</sup> March 2010, we have undertaken an internal audit of One Barnet – Development and Regulatory Services (DRS) Project Business Case review.	
	This report sets out our findings from the agreed upon procedures review and raises recommendations to address any areas of control weakness and / or potential areas of improvement, in order of priority.	
	The agreed upon procedures were agreed between the Assistant Director of Finance – Audit and Risk Management and Deloitte Public Advisory on the 1 <sup>st</sup> April 2011.	
Background	In October 2009 Cabinet approved plans to implement the Future Shape of the Council programme (now One Barnet programme). The first phase of the programme through the initiation of the first tranche of projects has been in place since 2010/11. A programme management office was established and programme governance arrangements put in place.	
	In September 2010 the Audit Committee received a report from the external auditors on the governance arrangements which made some high level recommendations for the Council to address. As the governance arrangements had been reviewed the Internal Audit Plan was devised to review one of the projects within the programme during 2010/11.	
Corporate objectives and risks	<ul> <li>The One Barnet Framework clearly outlines the key drivers for change and the reasons for the transformation programme, these being: <ul> <li>The need to find new ways to tackle challenging problems;</li> <li>The financial context; and</li> <li>Resident satisfaction</li> </ul> </li> <li>The One Barnet Programme has an overarching aim to become a citizen centred organisation to be delivered through the adoption of three key principles:</li> </ul>	
	A new relationship with citizens	
	A one public sector approach	
	A relentless drive for efficiency	
	The objective is to establish, manage and deliver individual projects across the different Council directorates to assist the Council in meeting the 'Better Services with Less Money' Corporate Priority and delivering the proposed savings targets.	

	No	Limited	Satisfactory	Substantial
Audit Opinion & Direction of Travel				
DRS project				
There has been no review of this particular project for the past 5 years				

#### **Key Findings**

A review was carried out in the format of an 'agreed upon procedures' review, these procedures were carried out solely for the purpose of providing some assurance to the Council on the quality and integrity of its Business Case on its Development and Regulatory Services Project, and to report specifically around those procedures.

For each of the procedures in scope we have:

- reported on whether the procedure has been carried out in the business case; and
- reported on the completeness with which the procedure has been carried out. This will be reported using a Red, Amber or Green scoring system where:
  - Red = the procedure has not been carried out
  - $\circ~$  Amber = the procedure has been carried out but could be enhanced
  - Green = the procedure has been carried out in full

Overall based on the agreed scope we have found that the Business Case documents show strong development of the strategic context and in defining the scope of services to be included. However there are some improvement opportunities in establishing the economic and financial case.

Also, the disclosure, presentation and signposting of the Business Case requires further consideration. Currently some information is spread between the Business Case and Options Appraisal and Addendum. Typically, a completed Business Case should be presented as one document, with appropriate sections, appendices and sign posts between them, clearly linked under the five case model. In addition, the methodology used to develop the business case should be included within the document to allow better understanding of the approach taken.

There were no priority one (high) recommendations, however there were some areas identified that could be further strengthened and developed within future business cases.

Procedure	RAG Rating	Areas for development
The strategic context has been explained		
The need for expenditure has been established		The need for expenditure has been partially established. The information is scattered throughout the document for the reasons for the 'case for change'. There could be improved summary of the information provided. <b>(Recommendation 1).</b>
Objectives and constraints have been defined		Constraints have been defined. There are high level priorities noted through-out the document however there is no specific objectives. It is expected that this area would be further developed throughout the dialogue process ( <b>Recommendation 2</b> ).
Options are identified and described		
Monetary costs and benefits have been identified, quantified and adjusted for optimism bias		Monetary costs and benefits have been identified and quantified, however they have not been adjusted for optimism bias. The methodology used by the Council does not require this however the methodology used has not been made clear (Recommendation 3).
Appropriate assumptions have been drawn for calculating monetary costs and benefits		Areas are recognised as being needing further development through the procurement process ( <b>Recommendation 2</b> ) and the methodology used would need to explain the approach to the assumptions ( <b>Recommendation 3</b> ).
Risks have been appraised		Risks have been appraised however could be developed more fully for options. The risks have not been adjusted for optimism, contingency or sensitivity however the approach taken to risk management corporately does not require this. The methodology used for risks could be explained <b>(Recommendation 3).</b>
Non-monetary costs and benefits have been weighed up		
Net present values and uncertainties have been calculated		Uncertainties have been calculated however net present values have not been calculated accurately. The net present values were not included as part of the methodology used, however the methodology used is not documented within the Business case (Recommendation 3).

Procedure	RAG Rating	Areas for development
Affordability has been assessed		The affordability of the project has been considered in terms of determining a net savings figure in line with budget, however in standard business cases there would be additional information provided such as an adjustment for RPI, consideration of VAT. (Recommendation 4)
Arrangements for funding have been recorded		The project will be funded from the transformation reserve, the size of the reserve is not stated however is included within the Medium Term Financial Strategy.
Arrangements for management, procurement, marketing, benefits realisation, monitoring and ex post evaluation have been recorded		Arrangements for marketing, benefits realisation, monitoring and ex post evaluation have not been recorded. <b>(Recommendation 4).</b>
The balance of the advantage between options has been assessed		
Results are presented and conclusions drawn		A conclusion has been drawn however there is no value for money assessment in accordance with the five-case model methodology, as another methodology has been used by the Council it should be made clear within the Business Case the approach taken to mandatory areas with the five-case model <b>(Recommendation 3).</b>

Acknowledgement	We would like to thank the management and staff of the Commercial Services for their time and co-operation during
	the course of the review.

## 2. Findings and conclusions

Р	Detailed finding	Risk	Recommendat	ion
2	We found that all relevant information relating to the Development and Regulatory Services (DRS) project was not included within the Business Case. The Options appraisal report and addendum were presented separately to the Business case.	the Business Case there is a risk that key stakeholders may not have all information pertinent to decision making and scrutiny	<b>Recommendation 1:</b> Busin projects of this size should in a consistent format wit disclosures and signpostin information linked to the cases model, or Coun methodology.	d be prepared h all relevant ng of relevant standard five
Mana	agement Response		Responsible Officer	Deadline
Agreed action: to review our corporate approach to the development of business cases for large / Corporate Programmes 3 r complex projects, to make any agreed revisions to the approach and to communicate this to key stakeholders.				3 months

Р	Detailed finding	Risk	Recommendation
2	<ul> <li>It is accepted that the business case is not considered final until the completion of the dialogue process, as such there were a number of areas that we reviewed that will need further expansion through that process. These include:</li> <li>Agreeing specific objectives with the strategic partner</li> </ul>	throughout the procurement process there is a risk that the required benefits may not be	<b>Recommendation 2</b> : Where assumptions are being revised through the procurement process a transparent process should be developed to update key stakeholders.
	<ul> <li>Calculating Net Present Values</li> <li>Consideration of opportunity costs</li> <li>Updating some of the financial assumptions used, for example</li> </ul>		
	<ul> <li>Having a clear audit trail from the benchmarking data and other information to the percentages of growth and cost savings</li> </ul>		
	<ul> <li>Analysis of interdependency between expenditure and revenue to support the calculation of the overall financial benefits of implementing change</li> </ul>		
	<ul> <li>References to previous service reforms to support expected income growth and cost savings</li> </ul>		

Management Response	Responsible Officer	Deadline
The business case for DRS will be updated after competitive dialogue 1 and at the point of selecting the preferred bidder. It will be updated in line with the agreed corporate process for doing so.	Corporate Programmes Manager	3 months
A transparent process is already in place to update key stakeholders of contents and revisions to business cases within the One Barnet programme and the DRS project.		
Agreed action: to review our corporate approach to the development of business cases for large / complex projects, to make any agreed revisions to the approach and to communicate this to key stakeholders		

Р	Detailed finding	Risk	Recommendat	tion
2	The Methodology for developing and presenting the business cases for approval is specific to the Council and departs from the five case model, however the methodology used is not referred to within the Business Case.		<b>Recommendation 3:</b> The used for the prese development of the Bu should be transparent to sta	entation and usiness Case
Mana	agement Response		Responsible Officer	Deadline
	methodology for managing projects has been in sion makers within the council are aware of the mether the mether the mether and the mether as a second s	Corporate Programmes Manager	3 months	
comp	ed action: to review our corporate approach to the plex projects, to make any agreed revisions to the pholders			

Р	Detailed finding	Risk	Recommendation
2	<ul> <li>Some aspects of the business case were either not included or fully evidenced:</li> <li>Affordability assessments <ul> <li>There has been no adjustment for RPI</li> <li>It was not stated that there had been consideration of VAT</li> </ul> </li> <li>Arrangements <ul> <li>Arrangement for marketing, benefits realisation, monitoring and ex post evaluation are not included</li> </ul> </li> </ul>	There is a risk that the Business Case may not include all relevant financial information on costs and savings expected.	Recommendation 4: According to the methodology that the Council has adopted it should be considered whether additional aspects for affordability assessments, marketing, benefits realisation and ex post evaluation should be included within the Council's model. Where these areas are not considered necessary the reasons for this should be documented.
Mana	agement Response		Responsible Officer Deadline
comp	ed action: to review our corporate approach to the plex projects, to make any agreed revisions to the pholders	Corporate Programmes 3 months Manager	

### Appendix A: Statement of Responsibility

We take responsibility for this report which is prepared on the basis of the limitations set out below.

The matters raised in this report are only those which came to our attention during the course of our internal audit work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of internal audit work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices. We emphasise that the responsibility for a sound system of internal controls and the prevention and detection of fraud and other irregularities rests with management and work performed by internal audit should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify all circumstances of fraud or irregularity. Auditors, in conducting their work, are required to have regards to the possibility of fraud or irregularities. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud. Internal audit procedures are designed to focus on areas as identified by management as being of greatest risk and significance and as such we rely on management to provide us full access to their accounting records and transactions for the purposes of our audit work and to ensure the authenticity of these documents. Effective and timely implementation of our recommendations by management is important for the maintenance of a reliable internal control system.

### Appendix B: Guide to assurance and priority

For each audit, we arrive at a conclusion that assesses the audit assurance in one of four categories:

$\bigcirc$	Substantial Assurance	There is a sound system of internal control designed to achieve the system objectives. The control processes tested are being consistently applied			
	Satisfactory Assurance	While there is a basically sound system of internal control, there are weaknesses, which put some of the client's objectives at risk. There is evidence that the level of non-compliance with some of the control processes may put some of the system objectives at risk			
	Limited Assurance	Weaknesses in the system of internal controls are such as to put the client's objectives at risk. The level of non-compliance puts the system objectives at risk.			
	No Assurance	Control processes are generally weak leaving the processes/systems open to significant error or abuse. Significant non-compliance with basic control processes leaves the processes/systems open to error or abuse.			

Priorities assigned to recommendations are based on the following criteria:

**High** – Fundamental issue where action is considered imperative to ensure that the Council is not exposed to high risks; also covers breaches of legislation and policies and procedures. Action to be effected within 1 month.

**Medium** – Significant issue where action is considered necessary to avoid exposure to significant risk. Action to be effected within 3 months.

**Low** – Issue that merits attention/where action is considered desirable. Action usually to be effected within 6 months to 1 year.

# Appendix C: Action plan

Priority	Issue	Recommendation	Management Response	Responsible Officer	Deadline
2	Information relevant to the Business case was not contained within one document.	Recommendation 1: Business cases for projects of this size should be prepared in a consistent format with all relevant disclosures and signposting of relevant information linked to the standard five cases model, or Council approved methodology.	Agreed action: to review our corporate approach to the development of business cases for large / complex projects, to make any agreed revisions to the approach and to communicate this to key stakeholders.	Corporate Programmes manager	October 2011

Priority	Issue	Recommendation	Management Response	Responsible Officer	Deadline
2	Some assumptions and information would undergo revision throughout the procurement process.	Recommendation 2: Where assumptions are being revised through the procurement process a transparent process should be developed to update key stakeholders.	The business case for DRS will be updated after competitive dialogue 1 and at the point of selecting the preferred bidder. It will be updated in line with the agreed corporate process for doing so. A transparent process is already in place to update key stakeholders of contents and revisions to business cases within the One Barnet	Corporate Programmes manager	October 2011
			programme and the DRS project.		
			Agreed action: to review our corporate approach to the development of business cases for large / complex projects, to make any agreed revisions to the approach and to communicate this to key stakeholders		

Priority	Issue	Recommendation	Management Response	Responsible Officer	Deadline
2	The methodology used to develop the business case diverted from Green Book guidance and was adapted to the Council's requirements. The methodology used was not included within the Business Case.	<b>Recommendation 3:</b> The methodology used for the presentation and development of the Business Case should be transparent to stakeholders.	The methodology for managing projects has been in place in the council for a number of years. Decision makers within the council are aware of the methodology which is in place Agreed action: to review our corporate approach to the development of business cases for large / complex projects, to make any agreed revisions to the approach and to communicate this to key stakeholders.	Corporate Programmes manager	October 2011

Priority	Issue	Recommendation	Management Response	Responsible Officer	Deadline
2	Some areas within the Business Case did not have an evidence base that was clearly traceable within the document, and there were some areas of recommended guidance not included within this particular business case.	Recommendation4:AccordingtothemethodologythattheCouncilhasadopteditshouldbeconsideredwhetheradditionalaspectsforaffordabilityassessments,marketing,benefitsrealisationandpostevaluationshouldbenefitsmodel.Wheretheseareasareasarenotconsiderednecessarythereasonsfordocumented.shouldbe	Agreed action: to review our corporate approach to the development of business cases for large / complex projects, to make any agreed revisions to the approach and to communicate this to key stakeholders	Corporate Programmes manager	October 2011