



Analysis of  
**Development and Regulatory  
Services Business Case**  
London Borough of Barnet

---

## **UNISON Barnet**

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

March 2011



## **European Services Strategy Unit**

(Continuing the work of the Centre for Public Services)

Dexter Whitfield, Director, Dip Arch (Distinction), MPhil City Planning  
Adjunct Associate Professor, Australian Institute for Social Research, University  
of Adelaide

Mobile 0777 6370884

Tel. +353 66 7130225

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

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

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	4
<b>Part 1: Assessment of the DRS Business Case</b>	<b>7</b>
Strategic Case	7
Economic Case	9
Commercial Case	10
Financial Case	11
Management Case	12
<b>Part 2: Additional key issues</b>	<b>15</b>
Public health issues	15
Cemetery and Crematorium	16
Lack of evidence	16
Gateway Review	17
Recommendations	17
Appendix	18
UNISON Members Feedback	
References	

## Executive summary

This report focuses on whether the DRS Business Case has fulfilled the necessary requirements to provide an economic, viable and sustainable case. It is evident that there are critical issues that are omitted from the business case, plus key policies and risks that are only addressed superficially. In conclusion, the business case is not fit for purpose and non-compliant for Council decision making purposes.

**Table 1: Assessment of the content of the Development and Regulatory Services Business Case**

<b>Assessment of DRS Business Case</b>	
This Business Case has been assessed to identify <b>major omissions</b> from Business Case (X) and where <b>key issues are only partially addressed</b> (O).	
<b>Strategic case</b>	
Policy context and strategic fit	
Service/business needs and requirements	O
Rationale for change	O
Critical success factors and objectives	
Corporate impact	X
Strategic risks	O
Assessment of constraints, dependencies and opportunities	
<b>Economic case</b>	
Justification for option	
Cost benefit appraisal including economic, sustainability and environmental impacts	X
Transaction costs	O
Sensitivity analysis	X
Value for money assessment	O
<b>Commercial case</b>	
Risk assessment	O
Employment policies, staffing, terms and conditions/pensions	O
Equalities	X
<b>Financial case</b>	
Capital and revenue forecasts	O
Third party income	O
User charges	O
Income and expenditure	O
Affordability based on whole life costs	O
Contingency plans for cost overruns/liabilities	O
<b>Management case</b>	
Governance arrangements	O
Transformation	X
Stakeholder involvement	O
Benefits realisation plan	O
Contract management, monitoring and review	O
Gateway Review of Business Case	X

Source: Office for Government Commerce, Local Partnerships and HM Treasury Green Book best practice guidance on the preparation of Business Cases.

---

## Strategic Case

The business case **fails to identify the operational risks** of outsourcing DRS services, including the governance, financial and service delivery risks. These risks must be addressed now because they have a crucial part in determining the **viability and sustainability** of the business case. Nor does it assess the future demand for services - a critical omission.

## Economic Case

It also fails to assess the potential knock-on effect on the local economy of significant changes in employment policies, local supply chains and the local environment in Barnet. Transaction costs appear to be significantly **under-estimated** because they do not include the cost of Council officer time and could be at least double those already identified, resulting in the Council significantly overstating the financial benefits. The DRS Business Case makes no reference to a **Sensitivity Analysis**, normally carried out to test the veracity of the proposals. The lack of analysis and evidence pertaining to the economic and financial aspects of the DRS Business Case means that the Council cannot determine whether the proposals represent value for money.

## Commercial Case

A very one-sided paragraph on the 'Benefits for Staff' paints an idealised picture and ignores the risk of job loss, changes to terms and conditions, reduction in the quality and security of pensions and more restrictive access to training and education. The planned equality impact assessment only relates to staff and should be extended to an equality analysis of the impact on service users and Barnet citizens.

## Financial Case

The DRS Business Case **does not estimate the required level of capital expenditure**. The cost reduction figures must be treated as basic estimates, particularly the assumption that 86% of the cost reduction will be achieved in years 2 and 3 of the contract. The business case does not take account of the **under-estimation of transaction costs**, capital expenditure of at least £2m, the likelihood that cost reductions and increased income are not achieved early in the contract, the effect of 'radical transformation' of services and changes in the demand for services.

The savings are based, in part, on specific net increases in income for each service with 88% of increased income obtained in years 2-4. This appears to be impractical. There is clearly **a risk that user charges will be increased** in order to achieve the income generation targets.

The business case assumes that the private sector will undertake 'significant investment'. But the Council will finance virtually all investment and no attempt is made to assess how this affects the overall costs and projected savings. This raises questions about the affordability of the proposals.

## Management Case

The DRS Business Case refers to the One Barnet framework but **does not** address the governance, democratic accountability and transparency issues arising from a strategic partnership. The business case provides no proposals or evidence about how the 'new relationship with Barnet citizens' objectives will be met.

It also fails to outline the direction of travel for a 'racial transformation of services'. The scope for generic working and multi-tasking are limited and with good reason. If Barnet citizens "*....continue to face service reductions*" this could result in further deregulation of planning, public health and regulatory services in Barnet. Contract management risks are omitted, a very important matter given the Council's history of contract disputes and failures.

---

## **Additional critical issues**

DRS services have an important role in maintaining public health conditions, creating the physical infrastructure and environmental conditions that have a key role in health promotion and prevention of disease and illness. However, the business case fails to address how these services will be maintained, let alone obtain the additional resources to enable them to be more effective.

The case for the inclusion of Cemeteries and Crematoria in a DRS cluster of services is unsubstantiated. The Council should immediately exclude Cemeteries and Crematoria from the scope of the procurement and return to the 2010 options appraisal findings.

## **Recommendations**

1. The Council should recognise that significant additional work is required before the Business case can be approved.
2. The formal procurement process should not be commenced until Cabinet Resources Committee has approved a revised DRS Business Case.
3. The Council's template and methodology for preparing Business Cases should be revised to ensure it is compliant with best practice.
4. Carry out an equality analysis under the Equality Act 2010 as part of a broader cost benefit analysis of the economic, sustainability and environmental impacts of the DRS proposals.
5. Gateway Reviews should be implemented in all major procurement processes as a matter of urgency.
6. The Council should immediately exclude Cemeteries and Crematoria from the scope of the procurement and return to the 2010 options appraisal findings.

---

## Part 1

# Assessment of the DRS Business Case

1.1 This report focuses on whether the DRS Business Case has fulfilled the necessary requirements to provide an economic, viable and sustainable case. It builds on the critical analysis of the DRS Options Appraisal (Barnet UNISON, 2010). The services in-scope are:

- Regeneration, Strategic Planning and Housing Strategy, Highways Transport and Regeneration and Highways Strategy;
- Building Control, Planning Development Management, Land Charges, Highways Network Management and Highways Traffic and Development;
- Environmental Health, Trading Standards & Licensing, Cemetery and Crematorium and Registration and Nationality Service.

1.2 The template for the assessment of the DRS Business Case was compiled using best practice guidelines for the scope of business cases produced by Office for Government Commerce (OGC), Local Partnerships and HM Treasury Green Book. The comments are organised in the five main categories in Table 1:

- Strategic Case
- Economic Case
- Commercial Case
- Financial Case
- Management Case

Additional analysis of key issues is included in Part 2.

## Strategic Case

### Strategic risks

1.3 The Business Case identifies four key risks connected with the procurement process (page A34). They relate solely to the risk of a poorly designed competitive dialogue process, changes imposed by central government, bidders not aligned with the Council's aims and a significant decrease in central government funding in the contract period. The business case completely **fails to identify** operational risks of outsourcing the DRS services, including the governance, financial and service delivery risks. The Council's response to our interim report on the lack of risks assessment claimed that it was "not common project management practice to include an entire risk register in a business case." One of the key functions of the Business Case is to identify **strategic** risks. The DRS business case does not assess strategic operational risks such as the potential risk of:

- Financial savings are lower than planned
- Income generation well below targets
- Unanticipated additional costs
- Failure to make required level of investment
- Value for money not achieved or significantly reduced
- Failure to achieve radical transformation of services (*"Unless a radically new way of delivering these key services is found it is likely that they will continue to face service reductions in terms of the functions they can offer to our community"* (page A7))
- Failure to increase service user satisfaction
- Contract renegotiation or termination
- Inadequate governance arrangements

- 
- Staffing disputes following new working systems, job losses, cuts in terms and conditions.

1.4 These are significant risks that are supported by an evidence base (various studies referenced in the Trade Union critique of the DRS options appraisal). They must be addressed now because they have a crucial part in determining the **viability and sustainability** of the business case. The Business Case does not take account of the advice in the Council's Corporate Risk Management Policy Statement and Strategy which provides guidance on when and how to carry out risks assessments (London Borough of Barnet, 2010). The strategy identifies strategic, operational, project and business continuity risks and classified by their nature – compliance, finance, health and safety, internal control checklist, political, reputational and staffing and culture. Risks are classified as being catastrophic, major, moderate, minor or negligible. It states "Risk assessments should be carried out as early as possible in the life cycle of any new project, programme or partnership" (London Borough of Barnet, 2010).

1.5 The business case states: *"The ultimate aim is to secure significant risk transfer to the provider, and where this is not possible, have a clear understanding of ownership and management arrangements (subject to achieving value-for-money)"* (page A37). Significant risks **cannot** be transferred to the contractor if the strategic risks described above are not identified the business case with at least an initial understanding of responsibility and mitigation. This is further highlighted by the statement that the intention is to *"ensure that the contract incorporates a risk/reward mechanism that aligns the partner's strategic interests with those of the Council"* (page A38).

1.6 The purpose of the business case is to identify the potential strategic risks in procurement and service delivery and to plan accordingly. It is not best practice that they are developed as the procurement process proceeds. Furthermore, there is a **high degree of uncertainty concerning the legality of a local authority delegating important regulatory functions**, particularly planning, enforcement and the Registration Service. The Council received legal advice from Home Office lawyers *"that local authorities cannot rely on any of the statutory provisions cited (sections 101 and 113 of the Local Government Act 1972, section 19 of the Local Government Act 2000 and sections 101 and 102 of the Local Government Act 2003) in the context of delivering the local registration service."* In addition, the Localism Bill and other planned legislation will result in significant changes in the powers and responsibilities of local authorities. The lack of clarity on legal matters raises further concerns about the adequacy of the DRS Business Case.

### **Service/business needs and requirements**

1.7 The Business Case **does not assess the future demand for services**. This is a critical omission and reflects poorly on the Council's procurement process. The Appendix on Existing Delivery Arrangements details the volume of current provision, often in unnecessary detail, together with a brief commentary on current workload. It assumes that these services will continue largely in their current scope and volume and that broader economic and societal change will not have any knock-on effects in Barnet. For example, continued changes in eating habits a growth in food outlets in the next decade could lead to increased demand for food inspections requiring more resources in a service which is already under-resourced.

1.8 How can the Council be confident that planned cost reductions can be sustained if the demand for services increases and more staff have to be employed? No evidence has been produced that efficiency and productivity increases will be able to absorb all increases in workload. But the Council's Corporate Plan assumes that the Borough will have further economic growth and new housing development.



---

1.9 Forecasting ten-year demand for some services is difficult but that does not mean it should be abandoned. It is a key part of establishing the scope, risks and service requirements for the future of vitally important services.

1.10 The lack of concern for the responsiveness and flexibility of the services is another consequence of the failure to assess demand.

## **Economic Case**

### **Cost benefit appraisal including economic, sustainability and environment impacts**

1.11 The Council's Corporate Plan 2010-13 contains a commitment to the 'successful London suburb' strategy. The DRS Business Case has been developed without taking into account the potential changes in the volume and type of regulatory services in the next decade. Equally important, it fails to assess the potential consequences for the local economy of significant changes in Council policy, for example, job losses, changes in terms and conditions, changes in local supply chains as a result of outsourcing could have a **negative economic impact** in the local service economy. Changes in the scope and performance of regulatory services could have a knock-on effect the local environment in Barnet and should be assessed as part of the cost benefit analysis.

1.12 A cost benefit analysis would also examine the **potential risks** and consequences of failure to achieve the required standards of regulation and the effect this may have for the Borough, citizens and businesses.

### **Transaction costs**

1.13 Transaction costs of £1.36m are identified (page 36), comprising legal advice (£692,500), implementation partner (£654,525) and 'other' (£18,720). These costs appear to be significantly under-estimated because they do **not include** the cost of Council officer time. It is standard practice to include this because it represents an opportunity cost, as officers could otherwise be engaged in other activities and projects. Comparable transaction costs for strategic partnerships in other local authorities have been in the **£2.0m - £3.0m** cost range. This means Barnet could be over-stating the financial benefits by at least **£1.5m** on the basis of transaction costs alone.

### **Sensitivity analysis**

1.14 A sensitivity analysis has an important role in assessing the effect of changes in the demand for services, the level of performance, financial savings, income generation forecasts, the success of new working methods and the level of risks. Testing the business plan against different assumptions is part of the process of assessing its **viability and sustainability**.

1.15 The DRS Business Case makes **no reference** to a Sensitivity Analysis. This is normally carried out to test the veracity of the proposals.

### **Value for money assessment**

1.16 The combination of the **lack of analysis and evidence** pertaining to the economic and financial aspects of the DRS Business Case and the quality of estimation of the overall costs, means that the Council is not in a position to reach a conclusion as to whether the proposals represent value for money. Significant further work is required before any statement can be made on value for money.

---

## Commercial Case

### Employment policies

1.17 A very one-sided paragraph on the 'Benefits for Staff' (page A18) paints an idealised picture devoid of evidence to support the claims of 'working in a large organisation' and 'extensive training courses' as if these were not applicable in local government.

1.18 The Business Case ignores the potential risks faced by staff in transfer to a new employer such as job loss, changes to terms and conditions, reduction in the quality and security of pensions and more restrictive access to training and education. The government has decided to **abolish** the 2003 Local Authority Code of Practice on Workforce Matters that prevented contractors reducing terms and conditions of new staff and thus created a two-tier workforce (Financial Times, 21 March 2011). This significantly **increases** the risks for staff.

1.19 Furthermore, the failure to explain future service delivery and transformation raises fears that attempts will be made by a private contractor to achieve cost reduction by the development of generic positions and multi-tasking, a higher ratio of trainee staff and other changes that could result in the **de-professionalisation** of staff and the service. This could have **drastic** consequences for planning, public health and other regulatory services and for Barnet citizens and staff.

1.20 Trade union concerns about TUPE resulted in a number of questions in 2010 that have never been answered and are included in the Appendix.

### Equalities

1.21 The DRS Business Case includes the first stage of an Employee Equality Impact Assessment. However, a more comprehensive impact assessment should be carried out for service users and to assess the potential broader equalities impact of the proposals.

1.22 It is worrying that the 'new relationship with citizens' **does not** extend to assessing the equalities impact of potentially major changes in the delivery of services on users and potential users. A new public sector equality duty comes into force on 6 April 2011, replacing the separate duties relating to race, disability and gender equality. The focus is on the quality of equality analysis rather than an equality impact assessment document. The guidance provides examples of questions – these are precisely the questions that should be included in an equality analysis of the DRS proposals:

- *Does the policy affect service users, employees or the wider community, and therefore potentially have a significant effect in terms of equality? Remember that relevance of a policy will depend not only on the number of those affected but also by the significance of the effect on them.*
- *Is it a major policy, significantly affecting how functions are delivered in terms of equality?*
- *Will it have a significant effect on how other organisations operate in terms of equality? (for example, a government strategy, an inspection or a funding criterion).*
- *Does the policy relate to functions that previous engagement has identified as being important to particular protected groups?*
- *Does or could the policy affect different protected groups differently?*
- *Does it relate to an area with known inequalities (for example, access to public transport for disabled people, racist/homophobic bullying in schools).*
- *Does it relate to an area where equality objectives have been set by your organisation? (Equality and Human Rights Commission, 2011)*

---

1.23 The government has launched an Equality Review which may lead to legislative and/or amendments. Irrespective, the Council should be undertaking an equality analysis of the DRS proposals in the interests of Barnet citizens, service users and staff.

## Financial Case

### Capital and revenue forecasts

1.24 The DRS Business Case **does not** estimate the required level of capital expenditure. It does make a reference to capital expenditure being required in the Crematoria and the Registration services. Capital expenditure on the Crematoria is estimated to be about £2m. A proposal to move the Registration and Nationality function from Burnt Oak to Hendon Town Hall/Library will involve “significant capital expenditure” but this would be offset by a capital receipt from the sale of the Burnt Oak property (page A55).

1.25 The analysis of the potential to improve (pages A21-23) is focused exclusively on cost reductions and income generation. Capital expenditure in the two above services is **not taken** into account – see section on investment below.

1.26 The cost reduction figures are in 5% bands ranging from 5 % to 20%. They must be treated as basic estimates, particularly the assumption that 86% of the cost reduction will be achieved in years 2 and 3 of the contract. This has the effect of overstating the potential savings, because a more realistic gradual implementation over years 2 – 6 of the contract would significantly reduce the savings profile.

1.27 When all these factors are taken into account, the forecast of a financial benefit of £28.4m from the “current gross baseline figure” **cannot be substantiated**. It does not take account of:

- Under-estimation of transaction costs (see above).
- Capital expenditure of at least £2m.
- ‘significant investment’ by the contractor financed by the Council.
- the likelihood that cost reductions and increased income are not achieved early in the contract.
- the radical transformation of services.
- changes in the demand for services.

1.28 Taking account of the above factors indicates that the any financial benefit will be **substantially lower** than that forecast. The business plan should be reassessed to establish more reliable and sustainable estimates. Again, the **risks** of not achieving targets and forecasts should be identified.

### Savings – income generation and user charges

1.29 The Council’s response to the Trade Unions Interim Critique of the Business Plan stated that it is “...*currently unable to state at this time exactly what these new or developed income streams will look like*” (page 2). However, the savings are based in part on specific net increases in income for each service ranging from 5% to 20%, which are concentrated in years 2 – 4 of the contract – 88% of increased income is planned to be obtained in this period and sustained for the rest of the contract period. This appears to be impractical.

1.30 The rationale for increased income generation (page A21-A22) is based on benchmarking data (where available) feedback from services and “commercial judgement”. Income generation figures are highly suspect for two key reasons. Firstly, increased income is based on “...*planned and assumed development and growth in the Borough*” yet all the economic indicators suggest that economic recovery will be significantly slower than originally estimated. Secondly, many of the services are highly vulnerable to spending cuts in other Council budgets, such as

---

highways. Furthermore, the scale of spending cuts over the next four years makes the use of benchmarking data, reflecting historic performance, not credible.

1.31 The report does not indicate what assumptions were made in calculating increased income from higher demand for services, increased charges, shared service provision and charges for value added services.

1.32 The Council's response to our concerns in the Interim Trade Union Critique conceded that they were estimates to "...*profile the potential benefits realisation*". This puts a different perspective on the savings claims.

1.33 There is clearly a **high risk that user charges will be increased** in order to achieve the income generation targets.

#### **Investment by partner**

1.34 "The partnership will involve significant investment by the partner into the services" (page A7). There is an underlying assumption, that in addition to delivering the DRS services and undertaking transformation to radically change and reduce the cost of service delivery, the private sector will undertake 'significant investment'. The business case makes **no attempt** to identify the type and scale of the anticipated investment, or to determine how it impacts on the overall costs and projected savings.

1.35 Virtually all investment will be financed by the Council and if this is required to be 'front loaded' in the early stage of the contract, the Council will be **paying higher** private sector interest rates and additional financing arrangement fees. The Trade Union analysis of the DRS options appraisal also commented on this issue. The business case merely repeats the same assumption without analysis.

#### **Affordability**

1.36 If the planned transformation of service delivery is not fully implemented, planned cost reductions achieved and income increased, this could have repercussions for affordability for the remainder of the contract. This could reduce the anticipated level of savings later in the contract period and bring into question affordability. In fact, the savings are likely to be considerably smaller when all the elements of the financial case are taken into account. The wider implications are that the Council may not be able to impose the planned level of spending cuts in regulatory services.

### **Management Case**

#### **Governance**

1.37 The DRS Business Case refers to the One Barnet framework but **does not** address the governance, democratic accountability and transparency issues arising from a large strategic partnership. A two or three tier board structure is normally established for strategic partnership contracts, but the way this is integrated into existing democratic and management structures is crucial. **Evidence** from existing strategic partnerships indicates this is a continuing problem for **elected members, service users** and staff/trade unions. In terms of a 'new relationship with citizens' the business case should, as a minimum, address how citizens will be engaged in the strategic partnership.

#### **Transformation of planning and public health**

1.38 The business case is predicated on the private sector finding a "...*radically new way of delivering the services*" otherwise "...*it is likely they will continue to face service reductions*" (page A7).

---

1.39 This raises several key questions: Firstly, although there are different permutations about how the services are clustered and operated, other clusters of service delivery are unlikely to result in a radical cost reduction.

1.40 Secondly, the services have to be provided by **skilled** professionally qualified staff. They are sometimes referred to as 'professional silos' but different service groups exist because of statutory requirements for professionalism and experienced staff who have to perform specific design, technical and regulatory functions. The scope for generic working and multi-tasking are therefore limited and with good reason.

1.41 Thirdly, if Barnet citizens "...*continue to face service reductions*" this, in effect, could result in **further deregulation** of planning, public health and regulatory services in Barnet. It implies that the Council may not have sufficient qualified staff to implement planning, public health and other regulations. This could have major implications for implementation of the Council's Corporate Strategy and future development in the Borough.

1.42 Finally, the **lack of detail and evidence** in the Business Case implies that the current management of DRS services do not have any radical proposals on how to transform the services. They are evidently entirely dependent on the private sector, which has very limited experience delivering these functions in a very small number of contracts.

#### **Stakeholder involvement - new relationship with citizens**

1.43 Forging 'a new relationship with citizens' is one of the One Barnet core objectives. The Business Case sets out eight aspirational objectives (page A16-17). They include the delivery of services "*in an integrated way, around personal and community issues that matter to citizens*", "*to build on the Council's successful record of community consultation and engagement*", "*establish greater synergies with central Government's Big Society initiatives*" and to "*measure customer satisfaction and respond by improving services and the public's perception of them.*" The objectives also included being "*more responsive to changing citizen needs within the Borough*", "*to drive improvements in the customer experience through the streamlining of processes*", to "*develop new and innovative ways to engage and involve the community in the co-design, and in some instances, co-delivery of services*" and to "*secure expertise in terms of how aims and objectives could best be achieved in a climate of significant budget cuts from central Government.*"

1.44 Apart from setting broad objectives, the business case provides **no proposals or evidence** about how the engagement objectives will be met. The companies likely to bid for the DRS contract (such as Capita, Mouchel, Balfour Beatty) do not have an acknowledged track record in providing meaningful and innovative citizen engagement. Nor do they have a similar track record in staff engagement. This is another area where the Council is entirely relying on the Competitive Dialogue process and the bidders to provide solutions. The statement in the business case that "*the Council will be able to draw upon its partner's ability to invest in and provide user-friendly and effective consultation and engagement for a wide range of stakeholders*" (page A8) is not supported by any evidence.

1.45 The claim that "*giving mutuals, co-operatives, charities and social enterprises greater involvement in the running of public services*" is "*particularly pertinent to the project*" is not applicable, unless the Council intends to encourage the main contractor to subcontract various services to new social enterprises. If this is the case, then these matters must be examined and costed in the business case.

1.46 'Commercial confidentiality' has played a key role in the procurement and operational stages of strategic partnerships. The release and availability of relevant information and performance data in the decision making process has a direct and

---

continuing influence on the level of community and staff engagement. The business case makes **no recognition** of this issue.

**Contract management, monitoring and review**

1.47 The business case recognises the importance of contract management but fails to recognise the operational risks and the need for rigorous monitoring. This is particularly pertinent in Barnet which has had a history of poor contract decisions and weak monitoring arrangements resulting in contractual disputes and contract failures such as Catalyst, Fremantle, Connaught and more recently the security firm MetPro Rapid Response. The recent legionella outbreak in Fremantle Care homes clearly demonstrates that weakness of the view that risk can be transferred to the contractor; furthermore it exposes the already well documented consequences of poor contract monitoring and the impact it has on service users and residents.

---

## Part 2

# Additional critical issues

2.1 The scope and content of the DRS business case raises additional issues:

- Public health issues
- Cemetery and Crematorium
- Lack of evidence
- Gateway Review
- Recommendations

### Public Health issues

2.2 The package of DRS services have an important role in maintaining public health conditions, creating the physical infrastructure and environmental conditions that have a key role in health promotion and prevention of disease and illness.

2.3 The **health of Barnet citizens** for the next decade will in part be determined on the performance of the DRS contract. **Environmental Health** is a “complex and highly regulated service” (page A46). “The service currently finds it difficult to meet statutory requirements for food hygiene and standards inspections due to inadequate resources” and is “currently unable to meet statutory Section 18 Health & Safety guidance due to inadequate resources” (page A49). It should be noted that the Food Standards Agency (FSA) is carrying out a review of the current food safety delivery regime and is expected to report in summer 2011. The FSA is concerned that that *“there is growing body of evidence that the current complex and inconsistent delivery model, coupled with declining resources at LA level and uncertainty about good performance being sustained or poor performance improving amongst food businesses, that the current model does not give the FSA, as the central competent authority, evidence or assurance that delivery is effective”* (FSA, 2011).

2.4 Furthermore, the FSA states the legal restrictions on outsourcing certain functions: *“Outsourcing the entire function to the private sector is not an option because of legislative constraints. Regulation 882/2004<sup>1</sup> sets out the characteristics, obligations and functions of competent authorities, as well as the basis upon which performance of those functions is audited by the FVO. It specifies the circumstances under which specific tasks can be delegated to control bodies<sup>2</sup>. This does not include actions taken in the case of non-compliance. This means that the competent authority, which is defined as the central authority of a member state and not a private entity, must retain responsibility for dealing with non-compliance”* (FSA, 2011)

2.5 The **Trading Standards and Licensing** “only address what are judged to be criminal rather than civil prosecution cases. Inspections are limited and tend to focus on cases judged to be high risk, and as a result, preventative activity is almost non-existent” (page A52). The **Regeneration** team has a “high volume of work” which is currently an issue (page A65).

2.6 The business case fails to address how these services will be maintained, let alone obtain the additional resources to enable them to be more effective. No evidence is supplied as how these services will be affected by ‘radically new service delivery methods’.

2.7 A **Health Impact Assessment** should be carried out as part of the cost benefit analysis to determine the potential impact on the provision of the DRS services, taking account of the planned changes in responsibility for public health.

---

## Cemetery and Crematorium

2.8 The Cemetery and Crematorium is a stand-alone service. Being part of a cluster of other services is not relevant because all the main private contractors who are likely to bid for the DRS planning, highways, environmental health and regeneration services have no experience in managing cemeteries and crematoria. They will simply **subcontract** the service to another provider but will **charge** a fee for managing the contract.

2.9 The original 2008 Cemeteries and Crematoria Options Appraisal was heavily criticised by the trade unions and Cabinet abandoned that appraisal in April 2009. A new options appraisal carried out by Council officers examined the following options:

- Option 1: No investment in the crematorium
- Option 2: £2m investment and £70K capital funding sink fund
- Option 3: Outsource get half of gross profits
- Option 4: 8% turnover- initial capital investment
- Option 5: Lease
- Option 6: Outright sale
- Option 7: Three-way agreement with Camden and Islington

This appraisal included a soft market test and concluded that the best option was to retain the service in-house and directly finance the investment.

2.10 The Business Case states *“The Registration and Nationality Service and the Cemetery and Crematorium services were originally included in the cluster because of their heavily regulated nature. They have remained within the cluster of services partly due to this ‘fit’ and in order to preserve the coherence of the council’s wider strategic vision of its future as a commissioning organisation”* (page A8). In other words, Barnet Council is putting ideological dogma before value for money and fiduciary duties.

2.11 The belief that inclusion in the cluster of services *“...could increase the net gain to the Council further if it were able to bring the significant investment that is required. This increased revenue potential would add considerably to market appetite for the bundle”* (page A10).

2.12 The arguments made for the inclusion of cemeteries and crematoria in a DRS cluster of services are **unsubstantiated**. The Council will finance all investment in the service. **Frontloading** investment will mean paying **private sector interest rates**, financial arrangement fees and private sector profits. The Council should immediately exclude Cemeteries and Crematoria from the scope of the procurement and return to the 2010 options appraisal findings.

2.13 The Council can ill afford to put an **important revenue stream at risk**. Outsourcing will inevitably reduce the income stream from this service and **risks opposition from Barnet citizens** to further increases in charges for cemeteries and crematoria services. The business case concludes *“the likely outcome is heavily dependent upon appropriate market interest for such a high value asset”* (page A50). The sensible solution is to withdraw Cemeteries and Crematoria from the DRS package and recognise that the high value asset should remain in-house and the necessary improvement work carried out under the Council’s capital programme.

2.14 We believe there is no value in having Cemeteries and Crematoria as an optional element of the contract. This will only further delay a decision about future investment.

### Lack of evidence

2.15 There is a **general lack** of supporting evidence throughout the business case. It is particularly absent in the Strategic, Economic, Commercial and Management



---

Cases. In contrast, the Financial Case contains a lot of financial information, but this flows from unsubstantiated assumptions and estimates.

### **Gateway Review**

2.16 The Council has rejected the **best practice** methodology of the Gateway Review process at key stages of the procurement process. They are mandatory in central government but not in local government although many local authorities with large procurement projects adopt this best practice approach. The Council's main rationale appears to be that a review will affect "...*the required pace of change*" and delivery of the Medium Term Financial Strategy. We believe Gateway Reviews will strengthen rather than weaken the procurement process and the MTFs.

2.17 Weaknesses in the DRS Options Appraisal and Business Case process could result in much greater delays later in the procurement process. The trade unions raised the question of Gateway Reviews several months ago and there has been adequate time to arrange them. Failure to carry out a Gateway Review process exposes the Council to the claim that it does not want to expose the serious flaws of its option appraisal and business case methodology to a peer group of officers. The failure to use the Gateway Review process, combined with the inability to fully identify and assess procurement and operational risks, means the Council is making fundamental mistakes even in its own project methodology.

## **Recommendations**

1. The Council should recognise that significant additional work is required before the Business case can be approved.
2. The formal procurement process should not be commenced until Cabinet Resources Committee has approved a revised DRS Business Case.
3. The Council's template and methodology for preparing Business Cases should be revised to ensure it is compliant with best practice.
4. Carry out an equality analysis under the Equality Act 2010 as part of a broader cost benefit analysis of the economic, sustainability and environmental impacts of the DRS proposals.
5. Gateway Reviews should be implemented in all major procurement processes as a matter of urgency.
6. The Council should immediately exclude Cemeteries and Crematoria from the scope of the procurement and return to the 2010 options appraisal findings.

---

## Appendix

### UNISON Members Feedback

UNISON members have had only a few days to examine the 165-page DRS Business Case and Report to Cabinet Resources Committee. Further comments on the business case will be produced separately.

#### **Outstanding Questions about TUPE**

1. Please list the Council services that have been subject to TUPE in the past 10 years and provide a breakdown of the number of initial transfers that are still working for the contracted party
2. Does the Council have any records on the changes to terms and conditions experienced by staff TUPE'd to contractors?
3. What examples of TUPE in the past 10 years in Barnet have been successful, and what is the definition of success underlying these examples?
4. Will contracted parties be required to make their terms and conditions of employment for non-TUPE'd staff clear at the time of Competitive Dialogue? What level of detail will be required?
5. In its contracting or ethical procedures, does the Council have any policies on the rights of staff who are TUPE'd to other entities?
6. Will staff who move from one role to another within any new entity have their terms and conditions protected or will they be expected to sign a new contract?
7. Does TUPE protect existing staff throughout the contract period from changes to their ability to participate in the Local Government Pension Scheme? Does it protect new starters after the point at which a contract is signed? Does it protect the existing value of the pension scheme against loss of income or closure?
8. If a member of staff refused to be transferred under TUPE what options are available to him/her?

---

## References

Barnet UNISON (2010) Critique of the Development and Public Health Services Options Appraisal, November, London.

Barnet UNISON (2011) Interim Critique, DRS Business Case, February, London.

Equality and Human Rights Commission (2011) Equality analysis and the equality duty: A guide for public authorities, January, London.

Food Standards Agency (2011) Food Safety Official Controls Delivery, FSA 11/01/04, London.

London Borough of Barnet (2011) Development and Regulatory Services Business Case, Report to One Barnet Overview and Scrutiny Panel, 23 March, London.

London Borough of Barnet (2010) Development and Public Health Services Project: Options Appraisal Report, August, London.

London Borough of Barnet (2010) Barnet's Corporate Project Management Toolkit, V10, London.

London Borough of Barnet (2010) Risk Management Policy Statement and Strategy, October, London.