

Dear Sir/Madam

I was given a copy of "Our Barnet" on 13 September and noted that Barnet Council intends to "outsource" most of its services over the next few years. From this newsprint, I see that the proposed outsourcing includes certain regulatory services, such as "environmental health". As you know, Environmental Health covers a number of public health issues ranging from food safety to pest control.

However, regarding this proposal, have Barnet Cabinet Members:

(1) Considered the meaning of "enforcement authorities", as defined in national and European legislation?

(2) Obtained "legal advice" as to whether EU laws made by our "masters in Brussels" that cover various services, and that have been implemented in the UK, will allow such outsourcing to "control bodies"?

(3) If so, have our Cabinet Members considered the possibility of the need for "local regulation" to cover such outsourcing?

(4) Have they worked out the amount of savings that will be made through this (absurd) proposal and, the cost of ensuring that any outsourced work/enforcement meets the requirements of the relevant law and, the needs of the residents of Barnet, i.e. auditing the work that is outsourced?

I have **highlighted** below, some possible relevant issues.

For example, the Public Health Act 2006 states:

10. Enforcement

*(1) The appropriate **national authority may make regulations designating the bodies or descriptions of body which are to be enforcement authorities for the purposes of this Chapter.***

(2) The regulations—

*(a) must specify **the descriptions of premises, place or vehicle** in relation to which an enforcement authority has enforcement functions,*

(b) may provide for a case being dealt with by one enforcement authority to be transferred (or further transferred, or transferred back) to, and taken over by, another enforcement authority.

*(3) It is **the duty of an enforcement authority to enforce**, as respects the premises, places and vehicles in relation to which it has enforcement functions, the provisions of this Chapter and regulations made under it.*

(4) *The appropriate national authority may direct, in relation to cases of a particular description or a particular case, that any duty imposed on an enforcement authority by subsection (3) is to be discharged **instead** by the appropriate national authority.*

(5) *In this Chapter, “authorised officer”, **in relation to an enforcement authority**, means any person (whether or not an officer of the authority) who is authorised by it in writing, either generally or specially, to act in matters arising under this Chapter.*

(6) *If regulations under this section so provide, **no person is to be so authorised unless he has such qualifications as are prescribed by the regulations.***

Schedule 2 of the Public Health Act 2006 states that an "authorised officer" means an authorised officer of an "enforcement authority".

In addition, **REGULATION (EC) No 882/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules**, might have some bearing on this issue and/or other European legislation.

For example,

Article 1

4. *‘competent authority’ means the central authority of a Member State competent for the organisation of official controls or any other authority (i.e. **local authorities**) to which that competence has been conferred; it shall also include, where appropriate, the corresponding authority of a third country;*

5. *‘control body’ means an independent third party to which the competent authority has delegated **certain** control tasks;*

Article 5

Delegation of specific tasks related to official controls

1. *The competent authority may delegate specific tasks related to official controls to one or more control bodies in accordance with paragraphs 2 to 4.*

*A list of tasks that may **or may not** be delegated may be established in accordance with the procedure referred to in Article 62(3).*

*However, the activities referred to in Article 54 shall **not** be the subject of such a delegation. i.e. **action in case of non-compliance, therefore it appears that only authorised officers, directly employed by the Council, may undertake appropriate enforcement action, in cases of non-compliance. (This is an issue on which I would expect Cabinet Members to seek a legal view).***

2. *The competent authority may delegate specific tasks to a particular control body **only** if:*

(a) there is an accurate description of the tasks that the control body may carry out and of the conditions under which it may carry them out;

(b) there is proof that the control body:

(i) has the expertise, equipment and infrastructure required to carry out the tasks delegated to it;

(ii) has a sufficient number of suitably qualified and experienced staff; and

(iii) is impartial and free from any conflict of interest as regards the exercise of the tasks delegated to it;

(c) the control body works and is accredited in accordance with European Standard EN 45004 'General criteria for the operation of various types of bodies performing inspection' and/or another standard if more relevant to the delegated tasks in question;

(d) laboratories operate in accordance with the standards referred to in Article 12(2);

(e) the control body communicates the results of the controls carried out to the competent authority on a regular basis and whenever the competent authority so requests. If the results of the controls indicate non-compliance or point to the likelihood of non-compliance, the control body shall immediately inform the competent authority;

(f) there is efficient and effective coordination between the delegating competent authority and the control body. (This would require sufficient and appropriate Council employees to be involved for this coordination).

3. Competent authorities delegating specific tasks to control bodies shall organise audits or inspections of control bodies as necessary. If, as a result of an audit or an inspection, it appears that such bodies are failing to carry out properly the tasks delegated to them, the delegating competent authority may withdraw the delegation. It shall withdraw it without delay if the control body fails to take appropriate and timely remedial action. (Obviously, as indicated above, such auditing/inspections must be undertaken by appropriate Council employees).

4. Any Member State wishing to delegate a specific control task to a control body shall notify the Commission. This notification shall provide a detailed description of:

(a) the competent authority that would delegate the task; (presumably Barnet Council, after agreement from the Government, i.e. the "Member State").

(b) the task that it would delegate; and

(c) the control body to which it would delegate the task.

Please note, I do not have a "legal background", but from the above, if central Government is the "competent authority" and Barnet Council is the "local" competent authority (as defined), then it appears that there are a number of issues that need to be dealt with regarding delegation of responsibilities, i.e. outsourcing and, any legal implications.

I would be interested to know whether these proposals have been properly costed; decisions made as to the additional cost to the Council/residents of auditing/checking the services provided by the outsourced providers (as indicated in the above law) and the number of staff required to undertake such duties. It might mean the same number or even more Council staff are required to ensure compliance with EU and national law.

It should also be borne in mind, that I am only referring to a small part of the proposed outsourcing of functions and there might be implications, if it is proposed (as it seems) to outsource further activities, that are covered by other national or European law.

I hope these thoughts will be of some use in the consideration of (what seems to me) to be an absurd proposal.

Yours sincerely

(Long Suffering Local Tax Payer).