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Meeting	Cabinet
Date	29 November 2010
<b>Subject</b>	<b>Adults In-House Service Review : Initiation of Full Business Case</b>
Report of Summary	Cabinet Member for Adults  This report seeks authority to proceed with the development of a full business case and business plan to implement a Local Authority Trading Company (LATC). This would result in the transfer of Learning Disability Services, Physical and Sensory Impairment Disability Services and Mental Health in-house provider services to the LATC.

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Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix A – Options Appraisal Report Appendix B – Teckal Exemption Considerations Appendix C – Initial Equalities Impact Assessment
For decision by	Cabinet
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

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## **1. RECOMMENDATIONS**

- 1.1 That Cabinet grant approval for work to be done to develop a full business case , supporting the findings of the high level options appraisal, which recommended the transfer of Adult Social Services in-house provision and staff to a newly established Local Authority Trading Company (LATC) and, subject to legal constraint, incorporating Barnet Homes.**
- 1.2 That a report is brought to Cabinet on the viability of the recommendation when the full business case has been completed.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 The Learning Disability Commissioning Strategy approved by Cabinet in June 2007 (decision item 12) set out an objective to establish the in house learning disability services within Barnet Council as a separate business unit within the Council at arms length from Adult Social Services to enable it to operate as an independent provider in 2009 as part of the Council's approach to the delivery of the vision for Adult Social Services of Choice and Independence.
- 2.2 The Housing Strategy was agreed by Cabinet on 12 April 2010 (decision item 8). This included the following:

The council views Barnet Homes as a potential vehicle for providing additional services on its' behalf, as well as extending its role as a provider of housing related services, and we will explore options for progressing this through the Future Shape programme.
- 2.3 The One Barnet Scrutiny Panel considered a presentation outlining the key points of the options appraisal on 11 August 2010 (decision item 10). The Panel highlighted the risk that some services, such as care homes, might be forced to close due to a decline in client numbers as a consequence of increasing use of personalised budgets. It was resolved that; the presentation be noted, the Panel support the option for Adult Social Service in-house provisions and staff to be transferred to a Local Authority Trading Company and the One Barnet Programme Board take into consideration the Panel's comments on the following:
  - The long-term future of Barnet Homes be carefully assessed when exploring options for transferring a Local Authority Trading Company to an Arms Length Management Organisation (ALMO);
  - Instituting Service Level Agreements to ensure that current high levels of service provision are maintained;
  - Providing appropriate services during the transition from Children's to Adult Social Services (18-19 years); and
  - In recognition of the diversity of Barnet's residents, equalities considerations should be given due consideration in the development of service specifications.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The three priority outcomes set out in the 2010/13 Corporate Plan are:
  - Better services with less money;

- Sharing opportunities, sharing responsibilities; and
- A successful London suburb.

The One Barnet Programme has three overarching aims:

- A new relationship with citizens;
- A one public sector approach; and
- A relentless drive for efficiency.

- 3.2 The aim of the proposal to implement an LATC is aligned within the One Barnet objective of “a new relationship with citizens”. Changing the way Adult Social Services are provided will promote choice and independence for residents. This is a strategic fit with the personalisation agenda to roll out personal budgets and direct payments as identified as a key service improvement objective in the Adult Social Services 2009/10 business plan.
- 3.3 This enabler for citizens will empower service users to select the services they require from the open market and by implementing an LATC we will ensure the council can compete in the free market and continue to offer Adult In—House Services registered by the Care Quality Commission rated as ‘Excellent’ or ‘Good’. In turn this will leave the council free to focus on becoming a commissioner of Adult Social Services as the core business of the authority, thus providing a relentless drive for efficiency with the services which remain in-house.

#### **4. RISK MANAGEMENT ISSUES**

- 4.1 As at September 2010, we were only aware of two established and operational local authority trading companies in relation to Adult Social Care. It is noted a number of local authorities are currently developing LATC models however, issues relating to governance and the relationship between the council as shareholder and LATC remain a risk as there is no opportunity to draw upon best practice from elsewhere.
- 4.2 Support and implementation costs for a relatively smaller scale authority such as Barnet are higher when compared to larger county councils. This risk would be mitigated by establishing an LATC which incorporates Barnet Homes ALMO to gain greater efficiency savings.
- 4.3 Due to the nature of the proposal, there is a risk of resistance and dissatisfaction which could impact the uptake of services and staff retention. To mitigate this risk there will be full stakeholder consultation with service users, carers and staff to develop the proposal in collaboration.
- 4.4 There could be potential conflicts of interest between the LATC and the council. This will need to be mitigated through sufficient governance arrangements which will be included in the analysis of the full business case.
- 4.5 Commercial risk ultimately resides with the council. This risk will be covered in the business plan which will model several scenarios and flexibility for adapting services in response to market conditions. With this proposal, Barnet Homes will be represented on the project board to share their learning and feed into the Business Plan.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The purpose of the project is to empower vulnerable adults to make choices about, and take control over, the social services they receive. Consequently creating an organisation which can support the implementation of the Personalisation Agenda should increase choice and control for individuals.
- 5.2 An initial equalities impact assessment has indicated 'Neutral Impact' and will be revisited at each major project milestone. It has however been recognised that as the authority move to a more consumer led model; services could be subject to change if demand decreases in the long run. In this case we will conduct further equalities impact assessments as part of any proposed change in order to mitigate potential risk of inequality.
- 5.3 Service users may choose support that is more appropriate for their individual preferences and/or needs, including some that may relate to their age, disability, ethnicity and Religion or belief. This may have a positive impact on meeting equality obligations.
- 5.4 Due to the nature of the services, equalities and diversity issues are high on the agenda. An 'Easy Read' version of community communications has been produced for service users with learning disabilities. Similarly, communications will be produced in alternative formats upon request.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 The establishment of an LATC for inclusion of the in-house services would necessitate a TUPE transfer of staff. Identifying those staff to be TUPE transferred would form part of the activity required to complete a full business case. It would need to have due regard for staff in Adult Social Services and any other staff affected which would form part of a TUPE transfer.
- 6.2 The Council, as the proposed sole or main controlling shareholder in the LATC, will continue to meet all of its statutory and contractual obligations in regard to change and its impact upon our staff. In the context of One Barnet Programme this means that all internal re-structures will be managed in compliance with the Councils Managing Organisational Change Policy. Where the change results in a TUPE transfer, the Council will meet all of its statutory obligations with respect to TUPE and Pensions and its obligations under Code of Practise – the Council has confirmed that it will not provide any further TUPE enhancement.
- 6.3 The Spending Review has announced reductions in government support to local authorities of 26% over the next four years. Grant distribution, which has yet to be announced, could result in greater reductions for individual Councils. In response to this challenge, the Council is consulting on potential budget reductions of £46m over the next three years.
- 6.4 For phase one of One Barnet projects, estimates of savings have been made which are reflected in our financial plans. These are therefore included within the budget reductions currently subject to consultation. Clearly, it has been necessary to make some assumptions regarding savings, but these have been assessed as reasonable and prudent

- 6.5 For the Adults In House Services project, the savings have been estimated as follows:

2013/14	£200,000
2014/15	£216,250
2015/16	£216,250
2016/17	£216,250
2017/18	£213,750
2018/19	£213,750
<b>Total</b>	<b>£1,276,250</b>

- 6.6 Taking advantage of the Teckal exemption referred to below at paragraph 7, would remove the need to engage in a full EU procurement exercise. This would allow the Council to proceed at a faster pace, realising benefits sooner than if it had to go through an EU procurement process.
- 6.7 Development of a full business case will take 2 months and is estimated to cost £102,833. These costs are outlined in the table below:

<b>Resource Type</b>	<b>Resource Name</b>	<b>Cost</b>
Internal	Project Manager	9,608
External (Specialist)	Legal Assurance	25,000
External (Specialist)	Business Analysis	68,225
<b>TOTAL</b>		<b>£102,833</b>

## 7. LEGAL ISSUES

- 7.1 In house Legal services have reviewed the High Level Options Appraisal produced by Care Health Solutions LTD. Advice has been given on whether the option of establishing an LATC for the provision of the 'Adult Social Care In-House Provider Services' is valid, without having to engage in a full EU procurement exercise, on the basis of the Teckal exemption.
- 7.2 Courts will interpret the Teckal exemption strictly and the onus will be on a public authority to establish that the exemption applies. This means that every detail of the LATC should be pre-planned to ensure it reflects the key features accepted by the courts in recent cases as being compatible with the Teckal exemption.
- 7.3 It should also be noted that joint initiatives by authorities for the joint delivery of public functions are compatible with the Teckal exemption, provided the company is genuinely owned and controlled by all the authorities involved and the arrangements relate solely to the pursuit of objectives that are in the public interest.
- 7.4 In order for the Teckal exemption to apply, the Council will need to demonstrate that it has satisfied the two-pronged test relating to 'control' and 'essential activity' established by the European Court. Guidance emanating from recent case law has pointed to various characteristics necessary to satisfy the two-pronged test relating to 'control' and 'essential activity', as well as those that are incompatible. These considerations are shown in appendix B.

- 7.5 In developing a full business case, considerations have to be given to all legal issues and constraints on the recommended option. Legal advice will be taken.

## **8. CONSTITUTIONAL POWERS**

- 8.1 The Council's constitution, Part 3, Responsibility for Functions, paragraph 3.6 states the functions of the Cabinet Resources Committee including:
- Capital and revenue finance, forecasting, monitoring, borrowing and taxation; and
  - Approval of schemes not in performance management plans but not outside the Council's budget or policy framework.

## **9 BACKGROUND INFORMATION**

- 9.1 Since 2007 work has been undertaken to prepare the provider services for transfer to an arms length organisation. This has consisted of significant service redesign across the learning disability services through the New Choices programme, and at the Network and Barnet Independent Living Service (BILS) to support greater user and care empowerment and an enablement approach. These service changes have necessitated changes to the staffing structures within each of the services and on the 7<sup>th</sup> April 2008, General Functions Committee approved a new staffing structure and terms of conditions for in-house staff, removing inconsistencies in pay and grading and flattening the management structure.
- 9.2 The report to General Functions Committee stated in para 9.10 that "The ultimate goal is that this group of services will become an autonomous stand-alone organisation, at arm's length from the Council. It will be important to have a strong business framework to enable the new organisation to maintain quality standards and compete for business in the marketplace. The services currently compare favourably to other local authority provision, in terms of value for money and the new structure will help to maintain value for money unit costs. (Cost comparison exercise Personal Social Services Research Unit – University of Kent)".
- 9.3 As part of the first phase of the project, Consultancy Care and Health Solutions (CHS) were commissioned to undertake a high level options appraisal on behalf of the authority in relation to future management options. The review did not focus on the nature of the services being provided as work undertaken from 2007 has reshaped the offer in line with the vision for Choice and Independence. Care and Health Solutions were appointed because of their track record and experience of transferring social care provider services into new delivery vehicles in response to the personalisation agenda, most notably in Essex with the creation of Essex Cares.
- 9.4 The high level options appraisal (Phase 1 of the project) has also included staff engagement and more limited user and carer engagement through the following channels:
- Staff Briefings - Informing staff of the work of the project and development and circulation of questions and answers

- Post Board briefings for In-House Managers informing them of the decisions of the Board
- Staff engagement in one-off meeting with users and carers with CHS on the options appraisal criteria
- Adult Social Services Staff Conference – Question and Answer session with SMT

In addition the project sought agreement from Barnet Enfield and Haringey Mental Health Trust (BEHMHT) to proceed with the inclusion of The Network in the options appraisal as this service is managed by the Trust on behalf of the Council by way of a section 75 Partnership Agreement. This was given through the Partnership Management Group meeting in May 2010. The outcomes of the high level options appraisal have been shared with the Chief Operating Officer of BEHMHT and accountable officer for the Barnet partnership agreement who has agreed in principle to the recommendations set out in the report from CHS, attached as appendix A.

- 9.5 The One Barnet Operational Group considered the options appraisal on 17 August 2010 and agreed to move forward with the development of a full business case to support the transfer of Adult Social Service in-house provisions and staff to a Local Authority Trading Company incorporating Barnet Homes as a potential solution. The group noted the comments from the One Barnet Scrutiny Panel and requested that relevant legal, governance and procurement issues are managed including the application of the 'Teckal exemption'.
- 9.6 Key to the options appraisal has been the consideration of the potential for savings. Adult Social Services has included savings linked to the In-House services within the Financial and Business Planning template totalling £671,000 to be achieved through some further service changes pre-transfer and through efficiencies post transfer to a new organisation. These do not assume any savings from support costs (corporate re-charges at this stage) as it is assumed that this will form part of the resources for the New Support Organisation project. However it should be noted that the proportion of the overheads to the in-house services is considerable and that efficiencies in the order of £1 million are suggested in table 3 of the report from CHS through implementation of the proposal. Adult Social Services however does recognise that the allocation of corporate overheads is a notional figure against the in-house services rather than a reflection of actual costs.
- 9.7 There are a number of new business opportunities and potential income streams that can be generated in the flexibility the LATC will have in responding to the market. This could provide more income than the additional cost of provision of that service, thus providing a contribution to the LATC. This contribution will be net income into the LATC, which will increase profitability and sustainability. The flexibility and speed of decision making outside of the Council is another element where an LATC can provide benefit in terms of indirect costs associated with the formation of an LATC such as re-engineered services.
- 9.8 The full business case will build on the analysis of the high level options appraisal which recommended the transfer of Adult Social Services in-house

provision and staff to a newly established Local Authority Trading Company (LATC). This recommendation will be subject to more detailed analysis to deliver the Full Business Case. Ahead of the full business case an initial Equalities Impact Assessment has been conducted and draft communications plan produced including service users (families and carers), partner organisations, staff and trade unions.

## **10. LIST OF BACKGROUND PAPERS**

10.1 None.

Legal: MAM

CFO: CM



**London Borough of Barnet**  
An Options Appraisal regarding the  
future of Adult Social Care In-House  
Provider Services

Report Prepared by  
Care and Health Solutions

10<sup>th</sup> August 2010

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Appendix 1 - Options Criteria Definition

Appendix 2 - Scoring the Options against the agreed Criteria



## 1 Executive Summary

- 1.1 This report explores the options available to London Borough of Barnet (LBB) in determining a new future for its Adult Social Care Providers Services. The main drivers for looking for a new 'vehicle' to provide these services emanates from the development of Personalisation and also the impact of recently announced squeeze on the public purse which will require that front line services are provided in the most cost effective and efficient manner. This will complete the work begun in 2007 when the Cabinet agreed Learning Disability Commissioning Strategy which set an objective to set-up the In House Learning Disability Services as an independent organisation at arm's length to the Council
- 1.2 The methodology undertaken included a review of the current services provided and in-depth conversations with staff from across the Council, other partner organisations and an analysis of the options utilising agreed criteria and criteria definitions. The 10/11 gross budget utilised in the provision of these services amounts to £7m. The Services have spent the last three years preparing for a potential transfer to independence. This has included the rationalisation and consolidation of job profiles across different services to create uniformity and parity. Services have also been reconfigured to ensure that they are meeting the agreed LBB eligibility criteria. These services are well managed and are of a high standard.
- 1.3 The following seven options are then explored with a discussion on their relative merits:
- Closure and the non provision or reprovision of service
  - Remain In-House
  - Tender (or trade sale)
  - Social Enterprise
  - Local Authority Trading Company (LATC)
  - Transfer to the LBB Arms Length Management Organisation (Barnet Homes)
  - Joint venture Company (with other independent organisations or other partners)
- 1.4 The criteria utilised to compare them by is then identified along with definitions at appendix 1.
- 1.5 It is recommended that if a decision is made to transfer to either a Local Authority Trading Company or 'start-up' social enterprise then all services should be grouped together and considered as a whole. There is a natural parcel of services formed by the Learning Disability Services and there are important synergies that can be formed between all services especially around inclusion and employment.
- 1.6 When analysing the grouped services against the identified criteria the option of a transfer to a LATC that includes the existing LBB ALMO (Barnet Homes) is the

strongest solution for services at this time. Such a solution would not preclude any of the other options being utilised at some point in the future.

- 1.7 The potential for savings is then reviewed. These include £120,000 in efficiency savings more achievable as a result of being managed outside of the Council. Also with a conservative 50% reduction in sick days and subsequent reduced agency costs, based on experience gained in a recently externalised Local Authority service, the new company could save over £213,000. There is a significant opportunity to achieve additional savings from unutilised back office costs as a percentage of the potential £1m identified in the analysis.
- 1.8 The report goes on to describe the informal stakeholder communication with; service user representatives, staff, unions, Barnet Homes, Barnet Coalition for Independent Living and Barnet, Enfield and Haringey PCT Provider Service.
- 1.9 Human Resource implications are explored regarding the Transfer of Undertakings (Protection of Employment) regulations and the particular legal and procurement issues in setting-up an LATC. This would allow the Authority to avoid the usual OJEU regulations.
- 1.10 Potential next steps and project timescale are then identified. This would require a detailed business case and business plan to be prepared prior to seeking a final decision by the Executive to transfer these services. Achieving the identified solution will require sign-up and engagement from most directorates within the Council.

## **2 Recommendations**

### **2.1 Following our analysis within this high level options appraisal it is recommended that:**

- **All the services reviewed in this Appraisal are ‘parcelled-up’ and transferred as a whole to an external provider. Our analysis suggests that the most appropriate solution at this time is for the services to be transferred to become one part of a larger Local Authority Trading Company that also incorporates Barnet Homes, the London Borough of Barnet’s Arms Length Housing Management Organisation, as a separate ‘sister’ company under a newly formed group holding company.**
- **A full business case is prepared to test and prove the concept of transfer to such an organisation. In line with the Local Government Act 2003 the business case should also include the Business Plan for the potential business, in readiness for Executive sign-off.**
- **A full communication and consultation exercise is undertaken with all stakeholders.**

### 3 Introduction and Drivers for Change

- 3.1 In June 2007 Cabinet approved the learning disability commissioning strategy which set out an objective to establish the In House learning disability services within Barnet Council as a separate business unit, within the Council, at arms length from Adult Social Services to enable it to operate as an independent provider in 2009 as part of the Council's approach to the delivery of the vision for Adult Social Services of Choice and Independence.
- 3.2 Over the last three years work has been undertaken to prepare the provider services for transfer to an arms length organisation. This has consisted of significant service redesign across the learning disability services through the New Choices programme, and at the Network and BILS to support greater user and carer empowerment and an enablement approach. These service changes have necessitated changes to the staffing structures within each of the services and on the 28<sup>th</sup> March 2008 General Functions Committee approved a new staffing structure and terms of conditions for in-house staff, removing inconsistencies in pay and grading and flattening the management structure. The report to General Functions Committee stated in paragraph 9.10 that "The ultimate goal is that this group of services will become an autonomous stand-alone organisation, at arm's length from the Council". It will be important to have a strong business framework to enable the new organisation to maintain quality standards and complete for business in the marketplace.
- 3.3 The Putting People First Concordat<sup>1</sup> has introduced the most radical change agenda since the introduction of the NHS and Community Care Act (1990)<sup>2</sup>, putting vulnerable individuals at the heart of the provision of their own care: giving them greater choice, control and engagement in meeting their care and support needs. Specific modernisation policy for Learning Disability services has also been introduced in the guise of Valuing People Now<sup>3</sup>. Over and above the issues identified by Wanless<sup>4</sup> about the future funding gap for social care over the next 20 years there is now the spectre of the most significant public sector spending squeeze since the 1970's following the recent global collapse of banking and subsequent recession. Following the recent emergency budget 25% savings targets have been identified for public services over the next three years.
- 3.4 These two elements have led to a new focus being placed on the future of Adult Social Care In-House Provider Services by the London Borough of Barnet (LBB): both elements create significant risks and threaten the continued existence of these services. The advent of personal budgets and increased utilisation of Direct

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<sup>1</sup> Putting People First A shared vision and commitment to the transformation of Adult Social Care, DOH 2007

<sup>2</sup> National Health Service and Community Care Act, OPSI, 1990

<sup>3</sup> Valuing People Now: A three year strategy for people with Learning Disabilities DOH 19<sup>th</sup> January 2009

<sup>4</sup> Wanless Social Care Review, Kings Fund - 2006

Payments will put vulnerable people in control of the commissioning of their own care provision. This turns the whole commissioning agenda on its head reducing the likelihood of continuing to commission large block contracts from providers. Whilst we anticipate that block contracts will still be around in years to come they will be smaller and help with the provision of ‘council managed personal budgets’. Cost will become a significant factor in individual’s choices of who provides their care and this immediately puts In-House Services at a disadvantage because of their high overhead costs. It is likely that if someone can buy twice as much support for the same price in the independent market they will. The other issue for In-House Services is the legal barrier regarding their ability to trade and make profit from within the Council. The text box at the end of this section summarises the issues and implications for LBB and its provider services of personalisation.

- 3.5 Therefore both cost and issues regarding trading threaten the sustainability and future of In-House Services. The potential double running costs of continuing to provide expensive In-House Services, whilst giving people Personal Budgets and Direct Payments, that they don’t use to buy In-House Services, is unsustainable. Moreover the cost of In-House Services is unsustainable not only in the world of self directed support but also in terms of value for money for cash strapped Local Authorities. Equally letting these services ‘wither and die on the vine’ is expensive. Not only in terms of the time that it takes for this to happen with the double running costs, but also if wholesale closures are made the redundancy costs and pension strain will be exorbitant. A managed decline could help to mitigate this through reducing staffing levels by natural wastage though this would still incur periods of additional double running costs. In conclusion, it is our view that remaining In-House and doing nothing is not a viable financial option.
- 3.6 Whilst services as they currently stand may be financially unsustainable for the future it is important to recognise that the Care Quality Commission registered In-House services are rated as ‘Excellent’ or ‘Good’ and it is important to recognise the legacy and learning that has been gained from bringing these services up to their current status.
- 3.7 LBB has reduced its In-House provision over the last 20 years and is now left with a small group of services. In the light of the identified drivers for change and having reached the final stage of the LD Commissioning Strategy, Care and Health Solutions were commissioned to undertake an Options Appraisal of the possible futures for these In-House Services.
- 3.8 The appraisal has been undertaken with reference to the One Barnet Programme, Choice and Independence Programme and as a ‘Right to Control Trailblazer’.

**Summary of the Issues and Implications of Personalisation for LBB and its Provider Services**

- *Service users are becoming commissioners of their own service with care budgets following the individual. By December 2010, all new service users and all reviews of existing clients will result in a personal budget being allocated,*
- *Personalisation of social care means that people can choose to use their personal budget to purchase a wider range of services and from a wider range of providers*
- *The LBB services are high quality and trusted services to some of the most vulnerable people within the Borough. The quality of the services is linked to the quality of staff, with staffing constituting over 80% of spend as the services.*
- *People who choose to have their Personal Budget as a Direct Payment cannot buy in house services*
- *In House services due to corporate overheads are more expensive than most independent provision*
- *There will be a double running cost in providing In House Services when service users opt to go elsewhere as the current model of In-House services consists of fixed costs,*
- *These services will ultimately become unviable over time at a significant cost to the LBB either in terms of double running and/or redundancy costs with these trusted services no longer being available.*
- *There is a national expectation that Council's will have put in place the building blocks for personalisation by the end of March 2011 when the social care reform grant ceases,*

## **4 Methodology**

- 4.1 This report is the outcome of Care and Health Solutions (CHS) investigations and analysis of the current set of services provided by LBB Adult Social Services, the position of the market and an understanding of the vehicles that are available for a new future for these services. The Options Appraisal is managed through a Project Board which reports to the LBB Investment and Appraisals Board and ultimately the One Barnet Programme. The findings and recommendations outlined in this report are based on: an overview of the current services, interviews with key Council staff, delivering or supporting the delivery of services, other staff across the ASS, other key stakeholders and partners and ultimately an analysis of the various options utilising an agreed set of criteria and a scoring matrix. The opinions and views expressed in this report are based on the evidence gathered and CHS experience and knowledge of similar services in other Local Authorities in England.
- 4.2 This is a 'high level' options appraisal looking to narrow the range of options to a preferred option(s) which will then be tested in depth in the development of a Final Business Case.
- 4.3 Within scope of this piece of work was consideration of whether there were opportunities for a joint solution with Barnet Homes. Out of scope for this Appraisal are the Borough Transport arrangements as these are the subject of a separate One Barnet project though it is important to recognise the importance of these services in terms of accessibility and cost to the provision of adult social care provision.

## 5 Overview of Current Services

- 5.1** Current service provision is managed in three distinct Service groupings: Learning Disabilities, Mental Health and Physical Disability services. Learning Disability is by far the largest group of services and Mental Health and Physical Disability services each provide an individual service. Apart from the learning disability residential services all services can be described as niche services providing essential good quality provision to mainly extremely vulnerable people and their carers. On the whole these services are providing modern, creative and quality services that attract the attention of other Authorities looking to emulate the modern approach Barnet is taking to developing provider services. To their credit services registered with the Care Quality Commission are mainly rated as Excellent with one or two exceptions rated as Good.
- 5.2** These services have already been reconfigured in relation to their strategic fit with regard to meeting eligible needs. With many of them providing niche services they are well placed to benefit from being in a trading environment, most notably Rosa Morison in relation to its facilities and skilled staff group. Extending opening times would improve capacity and allow more people from inside and outside the Borough to utilise these impressive services – though this would have to be proved through appropriate business planning.
- 5.3** There has been significant investment in the re-provision of the buildings for many of these services providing modern high quality environments for the provision of these services. Many of the buildings are owned by an LBB partner organisation, Notting Hill Housing Association (NHHA). Any solution for these services is likely to ensure that these buildings remain in the ownership of LBB and NHHA.
- 5.4** Many of the services are provided in conjunction with health staff, such as Physiotherapists, Occupational Therapists, Speech and Language Therapists etc. and any solution will need to ensure that it is compatible with this current provision, thus ensuring that this multi-disciplinary arrangement is allowed to continue for the benefit of the service users.
- 5.5** The following **table 1** provides a basic summary overview of the current In-House provider services that are within scope for this appraisal:

## Learning Disability Services

Service	Status	Indicative Budget
<p><b>Rosa Morison:</b> Rosa Morison provides a specialist service for adults with profound and multiple learning disabilities. At present staff's ability to support their self-determination is restricted by resources and individual conditions. The team are focused on providing innovative options and developments in communication and advocacy for the individuals who access the service. The emphasis of interactions with people is through a therapeutic model which supports them by managing their long-term medical and physical conditions, provides a health and nursing care element in conjunction with health partners; SALT Physio, District Nurses, Enteral Feeding Dieticians, Epilepsy Specialist Nursing, Psychiatrists. In conjunction with the health support the service works towards enabling users to develop in other areas.</p>	<p>27 staff provide services to 54 service users, 5 days a week Notting Hill HA provide and manage the recently reprovided asset.</p>	<p>Gross Cost budget of £1.02m, Income of £228k. Net cost to LBB £794k. 22.3 FTEs</p>
<p><b>Flower Lane Autism Service:</b> Provides a specialist buildings based and community day opportunities service for people with Autistic Spectrum Conditions. The service and building is managed in such a ways as to ensure that service users are effectively managed in small units whilst still having the opportunity to mix.</p>	<p>23 staff provide services to 40 service users, 5 days per week. Notting Hill HA provide and manage the recently reprovided asset.</p>	<p>Gross Cost budget of £1.09m, Income of £222k. Net cost to LBB £874k. 22.3 FTEs</p>
<p><b>The Space:</b> Provides day opportunities to a wide range of people with the emphasis of this service evolving and moving towards community participation and skills development.</p>	<p>60 Service users, 5 days per week. Notting Hill HA provide and manage the recently reprovided asset.</p>	<p>Gross Cost budget of £819k, Income of £55k. Net cost to LBB £764k. 17 FTEs</p>

<p><b>Agatha House:</b> Small residential home adjacent to an independent Community Supported block.</p>	<p>6 long term service users (two elderly) CQC Registered - 'Excellent' rated. Notting Hill HA provide and manage the recently reprovided asset.</p>	<p>Gross Cost budget of £445k, Income of £27k. Net cost to LBB £418k. 8.8 FTEs</p>
<p><b>Valley Way:</b> Valley Way Respite Service is CQC Registered and offers short-break stays to adults over 18 years with severe learning and physical disabilities, providing respite to the person staying and to their family. The building is a modern; purpose built facility, which has six bedrooms with adapted bathrooms. Over 80% of the staff team are qualified to NVQ Level 2 or above. A detailed assessment process is put in place as part of a person's induction to the service. This enables Valley Way to support service user choices and to provide the right form of support to the service users and their family. Link Workers gather information from service users and their families as to what activities they would like to do e.g. sensory room, art and computers and this will be programmed in to their stay. Specific activity weekends (swimming, bowling, cinema etc.) will be made available each month for service users and parent/ carers to book.</p>	<p>15 staff provide services for 35 service users utilising 5 beds and 1 emergency bed. CQC Registered – 'Excellent' rated service.</p>	<p>Gross Cost budget of £610k, Income of £62k. Net cost to LBB £549k. 10.7 FTEs</p>
<p><b>Supported Living:</b> Staff providing person-centred support to people within their own tenancies. Providing for all aspects of daily living including housing related support. 3 Blocks of Notting Hill Housing tenancies for 25 people (Quartz, September and Harold Courts) plus Leadbeaters Close and Goodwin Court supporting 4 people. CQC Registered domiciliary service rated as 'Good'</p>		<p>Gross Cost budget of £1.14m, Income of £140k. Net cost to LBB £1.007m. 27.8 FTEs</p>

<p><b>The Community Support Team:</b> highly flexible service providing community based opportunities, helping people access employment, college, and leisure through skills training often outside of traditional hours.</p>	<p>12 staff providing services to x staff, incorporates Barnet Garden Project - supported work on organic allotment</p>	<p>Gross Cost budget of £388k, Income of £14k. Net cost to LBB £374k. 11.3 FTEs</p>
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### Mental Health Services

Service	Current Status	Budget
<p><b>The Network:</b> Aftercare 'Enablement' Service supporting people on discharge from hospital admissions to facilitate sustained re-engagement back in to the community and reduce likelihood of readmission.</p>	<p>Providing services to x people in partnership with NHS Barnet and Enfield Mental Health Trust</p>	<p>Gross Cost budget of £675k, Income of £98k. Net cost to LBB £559k. 12.5 FTEs</p>

### Physical Disability Services

Service	Current Status	Budget
<p><b>Barnet Independent Living Service (BILS):</b> An enablement service and day service for people with a physical disability and embedded with the Centre for Independent Living Coalition.</p>	<p>Currently providing a service to x people in an unsuitable building</p>	<p>Gross Cost budget of £652k, Income of £0k. Net cost to LBB £652k. 11.8 FTEs</p>

### Business Support Unit

Service	Current Status	Budget
<p><b>Business Support Unit</b> Data and Management Information collation and administrative support for LD Services only.</p>	<p>This is an important service in developing key management information required by any new business.</p>	<p>Gross Cost budget of £112k, Income of £0k. Net cost to LBB £112k. 2.9 FTE's</p>

## 5.6 Financial Overview

- 5.6.1 We have not undertaken a comparison of LBB In-House Services using national comparators such as PSSEX because the measures used by different Authorities are notoriously inconsistent. For the purposes of this exercise where we reference a comparative view regarding ‘value for money’ this is based on our own experience and common sense.
- 5.6.2 The “Income” column in the following **Table 2** represents Income that can be directly attributed to the service users who are supported by that particular service area. Also included is any income that has been generated by activities such as the provision of meals or Day Service fees.
- 5.6.3 Other Local Authority income and Health Contributions to the costs of providing agreed services are also included.
- 5.6.4 One of the drivers for this appraisal and the change to current service models is the need to save on current levels of expenditure. **This and Corporate overhead allocation costs of £1.44m, which are not included in the above table will be reviewed in Section 8.**

London Borough of Barnet Summary of Services for Possible Externalisation and Re-engineering						
Service Area/ Location	Type of Service	Gross Budget 10/11	Income 10/11	Net Cost to LBC	% of Staff Costs	Staffing Nos FTEs
		£	£	£	%	Nos
<b>Learning Disabilities</b>						
Rosa Morison	PMLD	1,022,399	(228,000)	794,399	73.51%	22.3
Flower Lane Autism Svs	Autism Day Svs	1,096,278	(222,263)	874,015	74.48%	22.3
The Space	Day Service	819,099	(55,000)	764,099	67.79%	17.0
Agatha House	Residential Care	445,616	(26,880)	418,736	88.55%	8.8
Valley Way	Respite Service	610,730	(61,600)	549,130	90.73%	10.7
Supported Living	Supported Living	1,147,549	(140,000)	1,007,549	97.92%	27.8
Comm Support Team	Comm Access	388,941	(14,000)	374,941	91.21%	11.3
<b>Learning Disabilities</b>		<b>5,530,612</b>	<b>(747,743)</b>	<b>4,782,869</b>	<b>82.28%</b>	<b>120.2</b>
<b>Mental Health Services</b>						
The Network	Enablement	657,805	(98,270)	559,535	83.46%	12.5
<b>Mental Health Services</b>		<b>657,805</b>	<b>(98,270)</b>	<b>559,535</b>	<b>83.46%</b>	<b>12.5</b>
<b>Physical Disability Svs</b>						
B.I.L.S.	Enablement	651,920	0	651,920	75.41%	11.80
<b>Physical Disability Svs</b>		<b>651,920</b>	<b>0</b>	<b>651,920</b>	<b>75.41%</b>	<b>11.8</b>
<b>Business Support Unit</b>						
Business Support Unit	Support	112,141	0	112,141	99.26%	2.9
<b>Business Support Unit</b>		<b>112,141</b>	<b>0</b>	<b>112,141</b>	<b>99.26%</b>	<b>2.9</b>
<b>Total of All Services</b>		<b>6,952,478</b>	<b>(846,013)</b>	<b>6,106,465</b>	<b>82.02%</b>	<b>147.4</b>

5.6.5 It is worth noting that of the £6.9m gross service budget, over 82% of these costs are wholly staff related, this amounts to £5.7m. The remaining costs are for supplies and services. This distinction has been made because the opportunities and methods for saving costs vary greatly between these two types and will have a significant bearing on savings potential as will be discussed in **Section 8**.

## 6 The Options

6.1 In considering the future market positioning of the direct services a number of options can be considered which include:-

- Closure and the non provision or reprovision of service
- Remain In-House
- Tender (or trade sale)
- Social Enterprise (start-up)
- Local Authority Trading Company (LATC)
- Transfer to a LBB owned trading organisation such as the ALMO (Barnet Homes)
- Joint venture Company (with other independent organisations or other partners)

6.2 Each of these options is now reviewed. Any assessment of options against scoping and business plan validation must consider the following criteria and outcomes may be different depending on the service being considered. The criteria and criteria definitions were agreed in consultation with the Project Board and a representative group of service users. The Project Board were also involved in an exercise to score the options using the criteria (see **appendix 1** for definitions utilised. Please also note that there has been no weighting attached to any of these criteria):

- **Strategic Fit for Transforming Social Care** - Most importantly this looks at the suitability of the option in delivering a balance of the best possible facilities and quality of life for service users and carers at an affordable market price, and how the proposed option relates to the delivery of strategic objectives and policy aspirations set out in Putting People First as well as sustainability for the future:
- **Deliverability** – The ‘technical’ ability to deliver and make a reality of any of the options in a reasonable timescale, applying project management resources and assessing known risks to the process involved and planning contingencies. This includes factors such as Political and Corporate will, legality, stakeholder sign up and acceptance and, where appropriate market interest:
- **Acceptability** – The views and perspectives of key stakeholders in Barnet, including service users/customers, carers, staff and staff representatives. Elected members, LBB, partners and the public:
- **Value for Money** – The detailed costs and benefits and value for money of different options for the future, over the lifetime of any short term contract and beyond. This

includes recognition and review of financial risks and sensitivities, including the impact of LBB's asset management strategies and property plans.

### 6.3 Closure

6.3.1 It is important to ask the question as to whether a service should continue to be required despite the difficulties that can occur in closing services that stakeholders are attached to. Asking this question in the future, once self directed support is the norm, might produce a different response to asking the question now; as described in the Introduction. However, as previously described, the LBB services are mostly 'niche' services that the market is not currently providing within the Borough. The staff providing these services are relatively highly trained and skilled professionals and the cost both in terms of potential loss of skill to the market and in redundancy and pension strain costs would be considerable. Also as these services have all recently been reconfigured to ensure that they meet eligible needs, closure is not an option.

### 6.4 Remain In-House

6.4.1 Continuing to provide direct services within LBB through the existing structures and accountability arrangements is an option but in view of the drivers for change and policy agenda they are not sustainable in the medium to longer term. Continuing the service would enable LBB to remain a direct provider and could continue to facilitate the continued management of the modernisation agenda already well underway for adult services.

6.4.2 The benefit of this option would be a continuation of business as usual by LBB through existing internal arrangements. However for a number of reasons we would argue that this option is not the most viable longer term. Remaining In-House will mean:

- Services increasingly become economically unviable and non-competitive with elements of the In-House services being either 'parcelled' off or closed. It is likely that the services would be required to deliver year on year savings which in time would equate to 'slow death' and services with low morale.
- Due to the terms and conditions enjoyed by staff and relatively high cost of central support services the service base remains expensive.(which are reviewed in **Section 8**). As such, In-House services are increasingly non competitive in price when compared to the commercial provider market. Depending on the level of differential between the cost of In-House and commercial provider services Individual budget holders would be likely to choose commercial providers, leaving the In-House provision under-utilised, effectively a block contract with a high level of voids.

- The increasing number of Personal Budgets and Direct Payments being provided by LBB to meet the Personalisation agenda will not be compensated by a matching reduction in costs of the In-house services should individuals no longer choose to spend their personal budgets on these services. These services are relatively fixed, with redundancy and closure the principal solution to reducing costs. In the short to medium term LBB could risk paying for both the provision and the consumption of the same service.
- Retention of direct services does not fit with LBB's aspiration to be a commissioning led organisation and wish to develop into a smaller more enabling authority.
- Direct services do not have the benefit or legal freedom to trade commercially with service users in a manner which would allow more radical service redesign and response to personal budgets and direct payments and also the expectations of future generations.

6.4.3 Given that being In-House is the current position and that it will take some time to move to a chosen 'new future' it is important to look at the interim period in preparing these services for a potential externalisation; ensuring that through change management processes they are developing cultures that ensure that they are lean, sickness levels are minimised and staff are looking at the opportunities that could be realised outside of LBB. It is also essential to ensure that unnecessary cost is not externalised with the services as, depending on the level of externalisation, this may be irrecoverable.

## **6.5 Tender and Trade Sale**

6.5.1 This is the traditional and much used vehicle for transfer of services and LBB could tender (or offer for sale) the services at present contained within direct services to independent sector providers which may be: privately owned, voluntary sector or existing Social Enterprise organisations. As such LBB would divest its interest as a provider business with the transfer of the revenue and, where appropriate, parts or the entire asset base to the independent sector.

6.5.2 Such a transfer would achieve the desired outcome of allowing these services to be free from the constraints of the Council and therefore to develop beyond the current confines. It would also meet the objective of becoming a smaller and more enabling authority. Potentially credible national or local provider agencies could tender for services and become valued partner agencies with LBB. Within the terms of tender LBB could impose cost saving targets and requirements on the nominated partners to reshape and

address some of the existing cost pressures within the contract, although this may inflate the initial pricing.

6.5.3 There are a number of disadvantages that exist with this option depending on the type of organisation involved<sup>5</sup>:

- Transfer to independent vehicles can impact on staff morale and the success of the transfer especially if staff are not 'signed-up' to the ultimate destination.
- Externalisations to privately owned organisation are often viewed suspiciously by service users, staff and unions and despite reassurances provided by TUPE they can be very unpopular if they were placed in the hands of private sector providers, reducing staff and service user morale.
- There is a likelihood that an independent provider would cost the service at a higher price to offset the risk factors which may include: a relatively short contract (in the light of SDS), an expensive workforce and likely redundancy and pension strain costs as services are redesigned. Experience within another Local Authority through a soft market test exercise indicated that there was not appetite to take on similar services on such a short term contract.
- Loss of influence of the externalised business, though views on this are dependent on local cultures, previous experiences of externalisations and political perspectives.
- There would also be a potential loss of competition within the market place if there these services were to be transferred to an existing LBB approved provider.
- Local Authorities have a statutory duty to assess for and, where 'need' is identified, provide adult social care services and LBB would lose control or influence of any direct service base as a commissioning body. LBB would then be totally reliant on the commercial provider sector for all service needs. This may also impact on the Council's ability to ensure provision due to market failure or any emergency vulnerable adult situation in the community. Whilst in theory this may be resolved through effective commissioning and contract management, many Local Authorities are nervous about 'letting go' which may be linked to the perceived robustness of its commissioning function. Having confidence that safeguarding issues can be appropriately managed is a crucial issue for Councils.

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<sup>5</sup> Our experience elsewhere has indicated that the type of organisation is important and that Social Enterprises are viewed much more positively than private commercial organisations.

## 6.6 Start-Up Social Enterprise

6.6.1 The principles of the Social Enterprise Model offer an attractive option for the provision of adult social care services. The previous Government have been promoting this mode of organisation and this was further reinforced during the election campaign by all parties as a means of achieving ‘co-production’ with staff and service users in the development of their services.

*“Social Enterprises are business like entrepreneurial organisations with primarily social objectives. The surpluses are mostly reinvested back into their business or the community to help achieve these objectives and change people’s lives for the better. Social enterprises are not driven by the need to maximise profit for shareholders and owners. In essence, social enterprises use business solutions to achieve public good.”<sup>6</sup>*

6.6.2 There are many different forms of social enterprises, such as community interest companies, cooperative societies etc. Essentially they are businesses that trade for a social or environmental purpose/benefit. Core to every social enterprise is the trading of goods and services. Although grants may be an essential source of start-up funding and capital for many social enterprises, they are fundamentally about using business approaches to achieve public benefit and as with any other independent business achieving a surplus or profit is a pre-requisite for success and survival. Notable examples include the ‘Big Issue’, ‘15’, the Eden Project and within the social care and health sector: Sandwell Community Care Ltd and Central Surrey Health, a Surrey based NHS social enterprise providing nursing and therapy services. Social Enterprises established by LBB could help to ensure that some services of last resort (where no other provider is available or willing to take on the responsibility of providing a service either because it did not achieve a satisfactory level of profit or was commercially unattractive), remain within a social care value driven organisation.

6.6.3 The advantage of this model stems from not only the benefits of externalisation of services into a new legal entity that allows them to trade, adapt and flex to fulfil the needs of personal budget and direct payment holders, but also their ability to recycle profit back into service delivery, as well as having governance arrangements that include the input of customers, staff and stakeholder groups.

6.6.4 Disadvantages to LBB could include:-

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<sup>6</sup> Social Enterprise Unit, Department of Health 2006

- Loss of control of the externalised business, though views on this are dependent on local cultures and Political perspectives. Whilst elected Members (subject to any legal opinion relating to 'conflict of interest') might be able to sit on any management board, some of the disadvantages defined under tender and/or trade sale would also apply. In effect this would be a complete externalisation and separation from LBB as a defined independent legal entity.
- Achieving a balance between the principles relating to social enterprise being driven by a core objective to improve people's lives and not driven by the need to maximise profit for shareholders or owners is important. Within the current economic climate a greater balance is perhaps needed between the pursuit of profit and efficiencies as well as responding to the needs of the community, though this potentially could be dealt with through the contract.
- Loss of control of where any surplus or profit will rest. As a completely independently owned business, LBB will have no legal say as to how the surplus is used to benefit other service users in other areas. Also should the contract be "over-priced" the social enterprise could make exceptional profits and LBB would have no legal right to recoup any of it or direct it to best effect. Contractual arrangements could go some way to protecting LBB from this situation.

### **6.6.5 Employee Cooperatives**

6.6.5.1 In light of the recent national Government election a particular form of social enterprise received a great deal of attention. The positives of Employee Cooperatives were being highlighted by most of the major Party's'. It was suggested that staff of taxpayer-funded services, such as primary school teachers and care workers, would decide how they were run - within certain national standards. Mr Cameron said it would "unleash a new culture of public sector enterprise". Under Coalition Government plans, employee-owned co-operatives would be able to decide on management structures, "innovate" to cut costs and improve the standard of service, and share any financial surpluses among the staff. The assurance was given that workers terms and conditions , pensions and other benefits would be carried across from the public sector and members would be able to remain in trade unions.

6.6.5.2 Even though there is no universally accepted definition of a workers' cooperative, like any other form of social enterprise they can be considered to be businesses that make a product, or offer a service, to sell for profit where the workers are members or worker-owners. Worker-owners work in the business, govern it and manage it. Unlike with conventional firms, ownership and decision-making power of a worker cooperative should be vested solely with the worker-owners and ultimate authority rests with the

worker-owners as a whole. Worker-owners control the resources of the cooperative and the work process, such as wages or hours of work.

6.6.5.3 There are a number of different governance forms of employee cooperatives and if this were a chosen option for LB Barnet services an appropriate model would have to be determined and should include the views of the staff that will become part of it. Governance can involve share ownership and dividend payments related to profitability but can also mean that staff have voting rights in a number of different areas such as leadership, critical decisions etc. All of the legal forms shown in the table above could be used as the basis of an Employee Cooperative

6.6.5.4 The benefits of employee cooperatives can be highlighted by successful organisations such as the John Lewis Partnership and the Sandwell Community Caring Trust. Ownership brings a greater level of engagement and commitment to the business, improved morale and improved levels of customer satisfaction. However there is a danger that just setting up an employee cooperative is of its very nature seen as a good thing but it is important to recognise that this alone will not bring success. Good leadership and commercial acumen will both be essential to ensure the success of these businesses. The Chairman of John Lewis Partnership, Charlie Mayfield believes that co-ownership can empower front line workers to achieve a high level of customer service but suggest that it is not like flicking a switch the benefits will only be realised if employees buy into concept of employee ownership and see how it will benefit them individually.

## **6.7 Local Authority Trading Company (LATC)**

6.7.1 An LATC is a company established by the local authority in order to offer its services on a commercial basis i.e. trade and make a surplus. LBB is able to establish an LATC through the powers in section 95 of the Local Government Act 2003<sup>7</sup>, and now superseded by the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009.

6.7.2 The Act makes a number of stipulations regarding the power to trade.

- It does not override the statutory service obligations of a local authority:
- It does not supersede other trading powers a local authority may have:
- The power can only be exercised through a company:

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<sup>7</sup> For more information see: Department of Communities and Local Government – General Power for Local Authorities to Trade in Function Related Activities Through a Company – Guidance on the power in the Local Government Act 2003 (July 2004)

- The Secretary of State has the power to impose conditions on the exercise of the trading power and can remove statutory barriers to the exercise of the trading company.

#### 6.7.3 The Statutory instrument makes a small number of stipulations.

- That a local authority is permitted to trade in anything that it is authorised to do under its ordinary functions:
- A local authority must recover the costs of any accommodation, goods, services, staff or any other things that it supplies to an LATC to exploit the power to trade:
- That a business case must be prepared before the power to trade is exercised and in the case of LBB, it must be approved by the Executive.<sup>8</sup>

#### 6.7.4 The disadvantages of the LATC model include:

- For some people the transfer to independence is not seen as going far enough and, dependent on the governance arrangements, can mean that LBB by the nature of its involvement could continue to stifle its independence,
- For small Local Authorities, such as LBB, the relatively small value of the services mean that the support costs and costs of implementation are disproportionately higher as they do not enjoy the benefits of scale of larger County Council services.
- The issues emanating from the likely reduced use of the costs attributed to ‘back office’ services whilst potentially being more cost effective can be seen as divisive and adding greater costs to remaining other Group Directorate services if measures aren’t taken to rationalise.
- Without a change in culture there is a risk of ‘getting more of the same’ and not achieving improvements in creativity, flexibility and adaptability required in the new self directed support market.
- The issue of Governance and the relationship between the Shareholder, which is the Authority, and the Company has not been widely dealt with, as LATCs are relatively new in the Social Care market. This lack of successful exemplars and working models for new LATCs and Authorities to follow creates a higher level of uncertainty

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<sup>8</sup> The ‘Business Case’ as defined by the Statutory Instrument is a ‘comprehensive statement’ that states the objectives of the business, the investment and other resources required to achieve those objectives; any risks the business may face and how serious those are; and the expected financial results of the business and any other relevant outcomes that the business is expected to achieve

around governance. With only two working LATCs in the Adult Social Care area, new methods of governance will be tried without any real track record of success.

### **6.7.5 Benefits of ‘start-up’ Social Enterprise and LATC models**

6.7.5.1 Considerable benefits exist with either of these models in terms of moving services from their current In-House position but equally in matching opportunities that may exist through tendering to other existing independent companies. It is also important to recognise that LATC’s do in fact operate as a form of social enterprise in that the profit they make continues to be available to invest in the provision of care or other services. They can also take on other social enterprise functions through ensuring that governance arrangements deliver greater involvement of staff and customers in the running and direction of the business. Benefits include (some of which may also be achievable with externalisation to completely independent organisations):

- The services remain intact, as a functional unit but are able to trade and compete with other market competitors within the world of personal budgets and direct payments:
- It will continue to promote choice and competition in the Barnet market place retaining its place as a separate group of services:
- These services can adopt commercial disciplines to increase productivity and develop a culture of continuous improvement:
- These services can generate additional business through trading with non Barnet adult care clients, i.e. private individuals and neighbouring Boroughs and PCT’s:
- It facilitates the transformation of LBB into a commissioning led organisation:
- Social enterprises and LATC’s will be driven to increase service user choice through maintaining them as an independent provider and developing alternative services for service users in line with Putting People First:

6.7.5.2 In addition some of the more strategic outcomes can be achieved:-

- The model gives a workforce facing a potentially uncertain future an opportunity in securing a stake in their own future employment and to develop an entrepreneurial culture (not currently possible) that can reward success and engagement as demonstrated in social enterprise models like the John Lewis partnership and

Sandwell Community Caring Trust where staff are paid a dividend in relation to the performance of the organisation.

- The model through the Business Plan will enable greater scrutiny to achieve *value for money* outcomes for the services.
- The model will generate a formalised contractual relationship between LBB Commissioning, Care Management and Provider arm based on a clear and transparent specification that can include performance outcomes. It allows for the introduction of a Key Performance Indicator regime and culture linked to a reducing payment mechanism if failure to meet KPI's occurs and the model helps to drive through a positive culture change. It is likely to achieve a much closer working relationship between the parties than with other transfers in dealing with performance issues.
- The model could enable year on year efficiency savings for these front line services to be set against contract, providing LBB with year-on-year reduction in contract price through a tapering contract. With a tapering contract the model enables services to become commercially competitive, whilst at the same responding to personalisation.

#### 6.7.5.3 Specific benefits of the LATC model include:

- The model can facilitate a review of central overheads and 'back room' service level costs resulting in both organisations having freedom to purchase Finance, Human Resources, IT, Legal, Procurement, and Property services either from LBB or open market to achieve best value and a competitive edge. Whilst this may create some tensions within LBB it does begin to highlight quality, cost and 'customer focus' of Corporate Services that could lead to better outcomes for LBB in terms of value for money, if there is a willingness to consider the possibilities.
- The LATC model can be a relatively cheaper solution compared to most other option appraisal choices in terms of the transformation costs and reduced risk pricing, as the relative mutuality through ownership of the business and the 'special relationship' facilitates risk sharing, especially regarding potential for future service changes and redundancies.
- For the LATC, the LBB ownership should help to instil confidence from the public in the credibility of the Trading Company and the quality of its services. As the major shareholder there is a link for LBB influence and branding:

- Significantly LBB owns the LATC and so any surplus or dividend arising from its success is paid back to LBB for further investment in services or in the current climate to facilitate savings thus reducing the risk to other services. This can mitigate the risk of over-pricing the service contract with the LATC.
- The LATC model allows LBB to keep its longer term options open with a future tender exercise to the open market remaining an option at the end of the contract term.

With ownership of the LATC, LBB could put additional services into the LATC as and when it was most appropriate, As the forecast benefits of the LATC business model manifest themselves, other services could be identified as suitable for this vehicle and amalgamated accordingly.

- The LATC can retain the vital function of being the provider of ‘last resort’ in cases of emergency or market failure, and allow LBB to satisfy its statutory duties.

## **6.8 Transfer to an LATC with the LB Barnet Arms Length Management Organisation (Barnet Homes)**

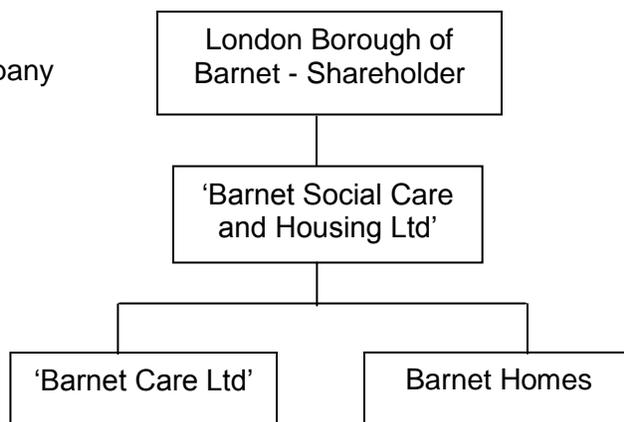
6.8.1 If the chosen outcome of this appraisal was to move all or any of these services to an LATC then utilising an existing Barnet owned Company such as their ALMO (Barnet Homes) could in effect replicate the benefits of the LATC model described above but with additional benefits of having a company already set up, tried, tested, and functioning. This would be particularly beneficial if only some of the services were to be transferred utilising this option. Whilst originally set up for different purposes the basis of the functional model of an ALMO is virtually the same as an LATC. As far as we are aware this would be a unique solution and would need to be assessed from a legal position.

6.8.2 Other small Authorities are also beginning to see this as a pragmatic solution instead of creating an LATC, as it saves on set-up and running costs, requiring only a relatively small increase in infrastructure to support the additional business. The key for this solution to be a success will probably require a change in governance arrangements for the ALMO to ensure that the social care services are appropriately governed and run and that the commercial focus for these services is achieved. There may be a number of ways to achieve this that would need to be explored in more detail if the Options and Appraisal Board and One Barnet Executive sees this as an option to pursue. Initial thoughts are using the current ALMO Executive as a holding company with the social

care services sitting as a separate service company to the housing services (see **diagram 1**). Both service companies can retain the appropriate governance arrangements at operating company Board level.

6.8.3 Given the nature of some of the social care services where they have Supporting People and Housing Support functions there are many synergies with Barnet Homes and the integration of these services may be of value.

**Diagram 1**  
Potential Company  
Structure



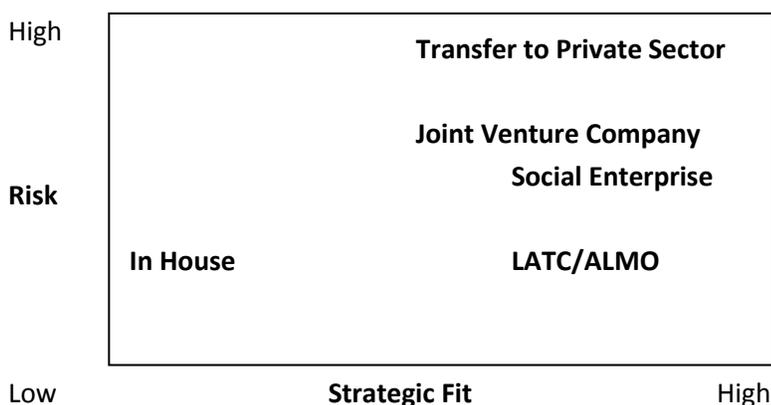
## 6.9 Joint Venture Company Arrangement

6.9.1 The final option for consideration is a joint venture company between an LATC and another social care provider where the social care provider services can benefit from the experience of an existing commercial social care provider. Other providers could be: another Local Authority, a Health Trust, or an independent organisation (private, third sector or existing social enterprise). Again there could be a number of ways of achieving this and the possibility of still setting up an LATC with the commercial partner taking up to 49% share of the LATC. Again this would be a first for social care services and would require a legal opinion, especially not falling foul of European competition and procurement rules. The limited size of these services and relatively limited profit margins may not make it a particularly attractive, though securing a foothold in these fledging businesses may be attractive for some.

## 6.10 Balancing Risk: Organisational Forms, Risk and Strategic Fit.

6.10.1 The following **diagram 1** summarises risk related to organisational form and strategic fit for the identified options. In effect a decision of 'how far' to transfer services will depend on the organisational and Political perspective on risk which may be influenced by a number of factors including previous experience of externalisation.

**Diagram 1** *Balancing Risk and Strategic Fit*



6.10.2 At this point it is appropriate to mention that the options of LATC/ALMO do not reduce all the risks inherent in the current Service provision and future re-modelling. The above diagram illustrates that with LBB maintaining ownership, and therefore control of the new organisation, certain risks are reduced. These reduced risks relate to:-

- Quality of Service
- Cost of Service
- Over/Under Pricing of Contract with LATC

6.10.3 The areas of risk that are not mitigated by the externalisation of the services relate to more over-arching issues such as:-

- Pension under funding
- Redundancy and pension strain
- Uncompetitive service provision
- Adverse affects of increased SDS implementation

6.10.4 All of the above risks are related to the view that the current in-house services are more expensive to run because staffing levels and costs are higher than the current private sector market. These running costs will have to be reduced: otherwise, increased

Personal Budget demand will follow the cheaper providers, leaving the externalised service with reducing numbers of customers.

- 6.10.5 Increased efficiencies and reduced costs may well be achieved through more motivated and engaged staff: better management etc, but there is still the potential for redundancies and two-tier workforce provision.
- 6.10.6 Therefore the additional costs of redundancy and the related pension strain will fall initially to the new body. However, because this body is owned by LBB, the ultimate decision as to the future of this service will still sit with LBB, the choice will be to either finance the business further until it becomes self sufficient, or let it fold and bring the service back 'In-House'. There is, in theory, another option, which is to offer the LATC for sale to the market. However, there will be very little appetite to purchase a failing business, so any transfer would involve some form of financial incentive to prospective buyers which will cost more than continued funding or in-house support. These are the risks that exist now for LBB and will still exist for the new externalised body.
- 6.10.7 Ultimately the success of most businesses comes down to the quality of the leadership and whatever form of transfer vehicle that is chosen ensuring that at the head of the business is high quality leadership will be vital for the future success of the business.

## 7 Fitting the Options to the Services

### 7.1 Configuring Service Groupings

- 7.1.1 Following our analysis there are a collection of services within the LD portfolio that we would recommend to be viewed as a natural ‘parcel’ of services. The collective size of these services is relatively small and our analysis suggests that if Social Enterprise or LATC are favoured options then retaining these services as a ‘whole package’ is both feasible and recommended in terms of having a large enough critical mass to make a viable new business.
- 7.1.2 This leaves the non LD Services – the Barnet Independent Living Service and the Network. The Barnet Centre for Independent Living Coalition is a Trailblazer for the ‘Right to Control’<sup>9</sup> and is housed within the same building as the Barnet Independent Living Service. It would make sense for elements of the BIL to consider independence from the Council and further the collaboration as a part of the CIL but ensuring that the Enablement Service continues its links with the Council in satisfying the strategic delivery of Enablement and we would therefore recommend that it is grouped with the LD Services.
- 7.1.3 There has been some discussion that because of its specialist nature, recent service reconfiguration and need to become established within existing care pathways the Network should be considered in isolation at this point. Whilst we understand the reasoning about this we do not necessarily concur that it should not be considered as part of the whole package for transfer. Retaining close links with referral and commissioning agencies should be achievable whilst other opportunities for market development in line with Personal Budgets would be important and welcome for service users looking for more personalised packages.
- 7.1.4 If transfer in the form of a tender were considered the services could be transferred viably in smaller units, though most providers would be looking for larger units.

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<sup>9</sup> Right to Control, Office of Disability Issues HM Government 2009

## 7.2 Scoring the Options.

- 7.2.1 Given the earlier analysis regarding the issues facing the In-House services in the context of personalisation and financial sustainability we would recommend transferring the in-house services outside of the Council. From our discussions with services leads there are definite benefits in keeping a relatively close relationship between the Council and Service by at least retaining a ‘relationship of influence’ and what could be described as a ‘special relationship’. The benefits of such a relationship are that these important services can benefit from taking a more commercial focus, a reduction in costs, taking advantage of the opportunities to trade and diversify as a trading organisation whilst at the same time continuing to work closely with Care Management and Commissioners in testing and developing important services that Promote Independence and help to ensure that LBB achieve its strategies around Health and Wellbeing and Independence. This in turn helps to minimise the Council’s spend on care provision. Whilst a new start-up Social Enterprise or an LATC would be seen as the most positive solution for the transfer of these services, the LATC would most likely afford the ‘special relationship’ that would helpfully achieve the aspirations cited as well as potential for a good working relationship between the parties.
- 7.2.2 When analysed using the previously agreed criteria (see Section 6.2 and Appendix 1) in **Table 2** below it is our view that a transfer to an LATC with Barnet Homes would provide the required level of independence whilst retaining a link and brand identity for services provided to some of the most vulnerable citizens in Barnet. This solution also provides the best value for money in that Barnet Homes is already an established business with a tried and tested back office function. Appendix 2 provides discussion for how we scored of each of the options. We also undertook an exercise with the Project Board where two separate groups scored the options. There scoring came out with broadly comparable outcomes. The scoring is undertaken on a relative basis i.e. relative to each of the other options.
- 7.2.3 A potential company structure is outlined in **Section 6.8 Diagram 1**. This would provide all the benefits for the current services outlined in **Sections 6.75 and 6.8**.

1=low 5=High

Options	Strategic Fit for Transforming Social Care	Deliverability	Acceptability			VFM	Totals
			Customer	Council	Staff		
Closure of Service	1	1	1	1	1	1	6
Remain In-House	2	3	4	2	3	1	15
Tender/Trade Sale	4	2	2	3	1	2	14
Social Enterprise (start-up)	4	3	2	3	3	3	18
LATC	4	4	3	4	3	3	21
<b>Transfer to an LATC with Barnet Homes</b>	<b>5</b>	<b>5</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>25</b>

### 7.3 Potential Savings

7.3.1 Experiences with a recently externalised Adult Social Care provider into an LATC have confirmed that savings of between 2.5% and 10% on running costs are a realistic objective (as identified in the bullet points below). The caveat is that the savings do not jeopardise or threaten the required level of service. Also, this was in a significantly sized County Council provider service and the full 10% savings may not be sustainable in a smaller Borough. Savings will also be affected by the extent to which management restructuring and service modernisation has already taken place. The services in Barnet have already been reconfigured which puts them in a positive position for transfer allowing them to focus on the opportunities that this would afford.

7.3.2 Efficiencies and savings of 10% or £120,000 can be reasonably expected to be generated from any of the following areas:-

For Non-Staff related costs of £1.20m:-

- Freedom to re-negotiate supply contracts with existing suppliers.
- Ability to source cheaper new suppliers.

- Flexibility and speed of decision making for new or re-engineered services.

For Staff related costs of £5.7m, recent experience has shown that high absence rates can be reduced by over 50% as a result of modernisation and the adoption of the following policies

- Line management supported and directed to deal with staffing issues directly, rather than ‘slowness’ of HR processes and a propensity to pass the problem on.
- Greater utilisation of staff time due to high staff morale and policies of good performance recognition, as opposed to tolerating poor performance.
- Reduced absence and resulting agency costs through better motivated and energised staff. Based on the absence data for last 6 months of 2009/10, sick days for 2010/11 are projected at 3,468. This is a 11.42% absence rate, or an average of 26 days per FTE. Recent LATCs and successful Social Enterprises have reduced absence rates to 4% or less, a reduction to this level would be a 66% drop in absence rates.

7.3.3 High level analysis of potential savings with a conservative 50% reduction in absence and subsequent reduced agency costs could save LBB over £213,000

7.2.4 The second area for potential savings is the reduction in the level of Corporate Centre support and activity. An initial analysis of the Corporate Costs shows that £1.447m will be allocated to the above services in the 2010/11 budget. These costs represent what LBB Corporate Centre spend on providing all senior management and back office support to the service areas that have been included in our analysis. £1.447m is 20.8% of the service budgets, this allocation is above the average % of 17.7% that we have encountered in working with 10 other LAs. The allocated cost in these 10 Authorities has ranged from 8% to 35%.

7.2.5 Whilst we recognise that % savings made at service delivery have not traditionally translated into possible savings at corporate level, the current allocation is very high and if these services were externalised they would not need to spend £1.44m on their back office support and senior management. If a new organisation was created to provide £6.9m of services and employ over 140 full-time equivalent staff, a potential structure could look like the following in **Table 3**. This includes indicative costs and also shows how the equivalent joint company with Barnet Homes might look. N.B. This would need to be tested more thoroughly at Business Case and Business Plan stage.

7.2.6 In summary LBB currently charges the provider services £1.44m. In a new stand-alone organisation the management and back office costs could be £850k (after buying back

services from LBB at competitive prices) and if these services were to be managed in one organisation with Barnet Homes, the costs would be approximately £356k.

**Table 3**

<b>London Borough of Barnet</b>				
<b>Indicative LATC Structure and Operating Costs at Company Level</b>				
NB all Staff Costs include NI & Pension Contributions				
		LATC		ALMO
Areas	Positions	Indicative Costs	Positions	Indicative Costs
		£		£
Board	M Director	76,290	M Director	76,290
	Finance Director	69,993		
	HR Director	69,993		
	Non Exec Dirs x 2	10,000	Non Exec Dirs x 2	10,000
Senior Management	Senior Accountant	49,920	Senior Accountant	31,210
	Business Supp Mgr	38,145	Business Supp Mgr	
	Business Dev Mgr	49,920	Business Dev Mgr	31,210
Admin Staff for	HR x 1	31,210	HR x 1	31,210
	Sec to Bd/Sen Mngmt	23,436		
	Accounts Clerk 1	31,210	Accounts Clerk 1	31,210
Support Services from LBB	IT	246,800	IT	50,000
	Payroll	16,650	Payroll	-
	Accounts/Treasury	44,536	Accounts/Treasury	-
	Archiving	15,000	Archiving	-
	Internal Audit	25,000	Internal Audit	25,000
	HSE	16,650	HSE	-
	Training	16,680	Training	16,680
External Services	Legal	25,000	Legal	12,500
	Marketing incl Web	50,000	Marketing incl Web	50,000
	Insurance	50,000	Insurance	31,765
	External Audit	25,000	External Audit	15,000
<b>Total Costs of Company Support Services</b>		<b>981,314</b>		<b>487,641</b>
Less Staff Costs already in Ser Budgets				
Managing Director (Curr Service Mgr Role)		(76,290)	Managing Director	(76,290)
Bus Support Mgr		(38,145)	Bus Support Mgr	(38,145)
<b>Net Cost of Company Support Services</b>		<b>866,879</b>		<b>373,206</b>
Current Cost of Corporate Ohead		1,447,858		1,447,858
(not incl Senior Management)				
<b>Potential Savings to be Made</b>		<b>580,979</b>		<b>1,074,652</b>

- 7.2.7 Our recommendation of combining these joint services with those of Barnet Homes in the manner described in 6.8, will bring savings as illustrated in **Table 3**. This option does present significant opportunities for these savings as Barnet Homes is already of a size to be able to finance its own back office functions, and the additional costs of providing services for another 140 staff would not be significant. It is recommended that more detailed work on this area is performed as part of a Business Plan to fully cost out the benefits of this development. However, indicative analysis suggests that if all Corporate Costs were left in the “Centre” the externalised services could operate on a cost base that is £1.1m lower than its current costs, as per Table 3.
- 7.2.8 When these savings are aggregated with the possible cost reductions in staff and supplies costs, the externalised services could reduce its operating costs by £1.4m pa. This would dramatically reduce unit costs of service delivery, giving the services an excellent chance to compete successfully for Personal Budget Holders and Self Funders.
- 7.2.9 This report recognises that certain corporate costs are not generated by ASS Directorate activity, and that by reducing demand on some corporate support services does not automatically reduce the actual costs incurred by LBB. Also any possible corporate costs passed back to LBB by the LATC would not actually save LBB anything unless this process was part of a Council wide policy to reduce the actual cost/size of Corporate and cross-Council support services. The One Barnet project, which is reviewing capacity and costs for all corporate areas should be in a position to convert the reduction in support services needed by the externalised ASS into actual savings.
- 7.2.10 The LATC does provide flexibility with regard to new business opportunities and recruiting new staff on less onerous and expensive terms and conditions. By adopting a structure of a group of companies wholly owned by the LATC, it is possible for a new company to be created within the group to supply a new care product with a newly recruited workforce. This workforce could be employed on new terms and conditions, which result in lower staff costs for the LATC. This situation would avoid breaking the Two Tier Workforce Code of Practice as it is a separate company employing new staff who have completely new duties and practices.
- 7.2.11 Following the change of Government and recent Emergency Budget there is an imperative to reduce public sector spending with an expectation of a 25% reduction over the next three years. The proposed option will provide the best opportunity to maximise savings whilst not impacting on the provision of front line services to vulnerable people.

## **7.4 New Business and Income Streams**

- 7.4.1 There are a number of new business opportunities and hence new income streams that can be generated that will provide more income than the additional cost of provision of that service, thus providing a contribution to the LATC. This contribution will be net income into the LATC, which will increase profitability and sustainability. These opportunities could be: a Personal Assistant agency, Brokerage Services and Reablement.
- 7.4.2 The LATC will have the powers to trade with new customer sectors, offering its existing services to service users who were previously “out of reach”. Self funders would be a good example of potential new service users. The LATC could look at providing a brand new service to an existing service user category, or to new service users. This freedom to develop new markets and products is not available when the services are run by the Council.

## 8 Staff and Human Resource Issues

8.1 All solutions other than remaining In-House have a significant impact on staff and are likely to lead to:

- Redeployment or redundancies if there is a closure of a service, or more likely
- The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) taking effect where services are transferred to other delivery vehicles.

8.2 The ultimate choice of vehicle will determine the Union response to the proposed solutions. We were involved in the transfer of services to a Local Authority Trading Company previously the Unions took a supporting and helpful attitude to the transfer. Trade sale or tender to more independent 'for profit' organisations may not achieve the same 'buy in'. Any transfer under TUPE will require a minimum three months staff consultation and dedicated HR project resource.

8.3 Whilst there is a relatively positive attitude to the notion of transfer to a social enterprise/ LATC/ALMO solution from managers of the services there would still need to be a well resourced and managed visioning and change management process developed to help to sell the change and help people understand the impact on them which will be crucial to staff attitude at the point of transfer. Developing new commercially oriented cultures needs to start at the onset of the programme so that some of these cultures have started to be embedded prior to transfer.

8.4 In transferring the workforce a business case decision will be needed on whether the newly formed company will offer the same terms to new employees post transfer or look to amend to 'broadly comparable' including reverting to a stakeholder pension option. This will probably be a decision for the Board of the transferring organisation post transfer and will depend on the ability of the new organisation to meet any savings targets without recourse to an immediate review of terms and conditions for new employees. In addition the new business will need to be mindful about any changes which impact on 'two tier workforce' guidance.

8.5 At this juncture it is assumed that all existing employees and new employees will remain on the same terms and conditions with the business case generating efficiency savings through other means. A further consideration would be required to determine whether TUPE applies to any existing corporate support colleagues, who would be expected to be in the Finance and HR departments.

- 8.6 Within the two tier workforce guidance there is flexibility to offer 'broadly comparable' terms. For example a 5% contributory stakeholder pension is deemed to meet this criterion against a final salary pension provision.
- 8.7 Regardless of the wage costs pressures there remains the requirement particularly in relation to the community based services to move towards a more flexible workforce in response to the evolution of individual budgets and personalisation. Over the next few years this will become crucial as block contract arrangements are replaced with more flexible preferred funding and spot arrangements.

## 9 Legal and Contractual Matters

9.1 Any decision to transfer services will require a legal opinion especially around the issues of procurement. Barnet already has significant experience of running tenders in relation to the transfer of services out of LBB. This section will therefore concentrate on the procurement 'rules' regarding the set-up of an LATC, which LBB will be less familiar with.

9.2 The legal powers of a Local Authority to create a trading company have already been identified under **Section 6.7** of this report. However if LBB were to choose the Barnet Homes (ALMO) as the chosen vehicle this would require a view from the Legal Section probably through engaging external legal advice to ensure that this solution would be 'vires'.

9.3 . In order to proceed with an LATC/ALMO the Business Case will determine the benefits and *value for money* outcomes for the externalisation into any such vehicle.

9.4 Procurement rules are provided under the Local Public Contracts Regulations 2006 Regulations apply to contracts for goods, services and works over a threshold but there is an exemption where a contract is awarded to a wholly owned subsidiary – known as the 'Teckal exemption'. Teckal relates to a German case tested in the European Courts relating to market competition.

9.5 To meet and obtain the necessary Teckal exemption a Local Authority needs to satisfy a two part test.

- Part one relates to the control administered by the Local Authority with similar control exercised over the LATC as it exercises over its own departments. This applies not only to ownership but the power of decisive influence.
- Part two relates to the essential activity test: where the LATC carries out part of its essential activity with the relevant local authority, therefore other activities are deemed of marginal significance.

9.6 Without meeting the requirement of the Teckal exemption a Local Authority under the Local Public Contracts Regulations would have to advertise to the market before contract award.

9.7 In considering the Teckal position LBB may wish to protect itself by awarding a tapering contract for a minimal period of three years (with the option of a two year extension) before putting the services out to market competition through tendering. This would provide a framework for the LATC to deliver efficiency savings, prepare the service base to compete in the commercial market and provide some legal protection to LBB should a legal

challenge be mounted. Within this scenario it would be legally reasonable for LBB to use an LATC to 'make fit' its service base before going to the market. Also the major tendering cost of TUPE remains an obstacle in any competitive exercise and legitimises LBB' intent to create an LATC to begin to address the workforce cost base. A time-limited contract provides the opportunity for the new LATC to create a market position and leaves future commissioning options open for LBB.

- 9.8 Before proceeding with the LATC/ALMO option LBB will need to confirm the legal position is validated by LBB legal team.

## **10 Stakeholder Communication**

- 10.1 Throughout this Options Appraisal we have been communication with various stakeholders; service users, Unions, Barnet Homes, Barnet Coalition for Independent Living and Barnet, Enfield and Haringey PCT Provider Service. This was not a detailed consultation more an opportunity to discuss the Options being considered and comment on the process and criteria used in scoring the various options. Notes and minutes of the meetings with service users and Unions were made available to the Project Board.
- 10.2 The PCT Provider Services are also currently determining their future resting place with 'vertical integration' to a local Acute Trust being the likely outcome. There are considerable complexities with regards to the service transfer, as at this stage it is not looking at services in a strategic sense of where they would best fit for a more appropriate care pathway delivery with regards to other like services in other organisations and therefore the imminent changes may well be of a short term nature ahead of more considered final resting places. The 'Sectorisation' of PCT Commissioning within London may equally have an impact on locality PCT commissioning delivery with the potential that some elements of health commissioning could potentially move to a more focussed Joint Commissioning role with Local Authorities playing a more significant role e.g. prevention and hospital discharge. This may also involve Children's Services.
- 10.3 It will be critical to keep and further develop a mature relationship between Council commissioned services and Health commissioned services and how these can provide a more integrated care pathway for service recipients and therefore it is important that the outcome of this Appraisal would not interfere with the ability to achieve this in future.

## **11 Risks and Issues**

- 11.1 The detailed risks and issues for the chosen options would be identified in the development of the final Business Case but high level risks and issues have been identified within the exploration of both the current service configuration and identified options.

## **12 Next Steps**

- 12.1 The scope of this appraisal was to identify the possible options available for the future of these services and to make recommendations regarding the various services and their 'fit' to the options. If SMT are in agreement with the proposals the next steps would be to develop a final Business Case for the various identified solutions. This should encompass a full consultation with all stakeholders, although, recognising that this would be unlikely to happen prior to the forthcoming elections.
- 12.2 Achieving Executive approval would require a dedicated Programme to undertake the necessary work. It would probably be most cost effective to undertake this work for the different options over the same time frame to make the most efficient use of project resources and experience.
- 12.3 Subject to the outcome of this Options Appraisal receiving a favourable response, the table below provides an indicative time line and identification of key phases. In doing so the combination of political will corporate leadership sign-up and a timely and focused response by Council Officers will help ensure both the time line and costs are met and contained.
- 12.4 A potential timeline from Cabinet approval to proceed with developing a final Business Case to 'Go Live' would be:

Activity	Month																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Seek Member Approval to proceed with preferred Options.																		
Prepare Final Business Case and Consultation																		
Cabinet Approval																		
Implementation: contract negotiation, staff TUPE consultation etc.																		
Shadow Operation																		
'Go Live'																		

## 12.2 Project costs

12.2.1 Project costs would be identified at the point of developing the final Business Case once there was a determination of chosen direction and would depend on the availability of change management resources within LBB and any requirement for external support.

12.2.2 The costs of moving from Member approval to achieving executive sign off for the chosen options would be related to the Consultation and development of the final Business Case and would depend on how LBB want to resource this exercise. The development of the final Business Case should also include the preparation of the Business Plan for any of the services being transferred to either the Barnet Homes (ALMO) or an LATC.

## **13 Conclusion**

- 13.1 In our view there are significant benefits both 'hard' and 'soft' for all stakeholders that can be achieved by a transfer of these services outside of the Council. The drivers for such transfer emanating from Personalisation and the need to ensure efficient and leanly managed services that can also maximise opportunities for income generation are very powerful and the risks to these services and ultimately to LBB of remaining in house should not be underestimated. There is also a potential partnership opportunity with an existing Council owned business, Barnet Homes, that would enhance this opportunity.
- 13.2 Working with LBB staff we have shown that out of the available options that may fit these services, in the main, the benefits of moving to an LATC solution would provide these services with the freedom and opportunities that would help them evolve, develop and hopefully flourish that will not only progress the journey towards Personalisation but will also bring benefits to the Council and ultimately the tax payer.
- 13.3 Such a outcome would not preclude any of the other options at a later stage for one or all of these services.

## Appendix 1

### Options Criteria Definition:

#### 1 Strategic Fit for Transforming Social Care

- Direct Payments and Personal Budgets –per National Agenda
- Maximum Choice, Control and Independence for Service Users
- Empowering service users
- Flexibility of provision including ability to purchase single DP/PB
- Demographics; sustainable (inc competitive and 'safe') for the future

#### 2 Deliverability

##### *Technical Ability to Achieve the Outcome*

- Political
- Legal
- Stakeholder sign-up and acceptance
- Corporate will
- Timescales
- Resourcing

##### *Market Interest - (where appropriate)*

#### 3 Acceptability

- **Customer**  
Acceptability/Beneficial to customer (purchasing, adaptable, flexibility and creative)  
Quality and Perceived Risk  
Availability – Borough Coverage for service
- **Council**  
Governance (Members and Leadership Team)  
Risk (service of last resort, Market foothold and market leadership)  
Ability to influence the external 'vehicle'  
Sustainable (FAC's and demographics)
- **Staff**  
Staff sign-up and engagement  
Staff retention  
Future employment with current T's and C's  
Quality maintained  
Greater opportunity for growth and development

#### 4 Value for Money (VFM)

- Costs to Citizen (tax payer and service user)
- Costs to the Council (implementation and ongoing contract costs)
- Quality and Risk
- Future Cost Savings and Efficiencies available

**Other Dimensions to be aware of:** Quality, Risk and Sustainability and Affordability

## Appendix 2

### Scoring the Options against the agreed Criteria

Scoring of the options was on a 1 (low) to 5 (high) basis and in relation to each other. Whilst we recognise that this is not a scientific measure and can be swayed by such things as personal perspectives, political views and previous experience it does provide a useful way of teasing-out the nuances between the different options. The following provides an explanation of our scoring and reasons behind it.

#### Strategic Fit for Transformation

Given that these services had been modernised and reconfigured in relation to their strategic fit for meeting eligible needs and the commissioning agenda of the Council closure would always score low in this analysis. Equally given the impact of personalisation and the arguments put forward in this paper 'Remaining In House' scored low as these services are unsustainable in a world of micro-commissioning and in relation to the constraints placed on them by being within the Council.

We score 'Tender/Trade Sale', 'Social Enterprise' and 'LATC' highly (4 out of 5) because all of these provide the independence required by these services to develop to satisfy the issues that we identified regarding the personalisation agenda. We scored the 'Transfer to an LATC with Barnet Homes' with a 5 as this option as well as being equal to 'Tender/Trade Sale', 'Social Enterprise' and 'LATC' also provides opportunities and synergies regarding a significant number of service users who were also tenants and were also in receipt of Supporting People resources.

#### Deliverability

Unsurprisingly 'Closure of the Service' scored the minimum as it didn't satisfy the agenda and therefore would be difficult / impossible to achieve.

'Remaining In House' has no deliverability issues and some improvements in efficiencies could be achieved and the service would be sustainable in the short to medium term depending on the speed of transfer and uptake of Personal Budgets, however in the longer term it would be unsustainable, hence it being scored down at a 3.

We scored 'Tender/Trade Sale' a 2 because in our view there would be more opposition to this option from both staff and service users. The need to have an Option that has staff and service user/carer acceptability is important in relation to the success of a service that is providing vital support to some of the most vulnerable people in our society. Equally the relatively short term nature of the contract (due to the increase in quantity of people with personal budgets over the coming years) means that there would be an inevitable level of risk pricing leading to a higher contract price. Soft market testing in another Local Authority showed no appetite for short term

contracts of this nature. There would also be a significant procurement resource required to achieve this option. Also given that all new service users will be in receipt of a personal budget by December 2010 with all of the building bricks being in place by March 2011 when the Social Care Transformation Grant comes to an end, this option would take considerably longer to achieve through the procurement route.

We believe that the value base provided through a 'Social Enterprise (start-up) and 'LATC' would be much more deliverable in terms of the technical ability to deliver the change, stakeholder acceptability and resourcing as well as speed of delivery. The possibility of staff and service user involvement and engagement within the organisation would help in the deliverability of the solution. We therefore scored these with a 3 and 4 respectively. Combining the LATC with Barnet Homes scored a 5 because this is a business that is already created with its own Executive and with a positive reputation which would make deliverability relatively straight forward.

### **Acceptability**

**Customer** It is inevitable that closure of valued services would score the lowest and equally that continuing the status quo would be popular which is why we scored it highly however we believed that with an understanding of the consequences of not changing then the score would be less than the maximum score and hence we scored it a 4.

From our stakeholder meetings there was a general mistrust of 'Tender/Trade Sale' and 'Social Enterprise' as these were unknown entities with concerns about the value base and quality, especially for 'Tender/Trade Sale'. Consequently we scored these relatively lowly with a 2.

The continued link to the Council and Council branding from our experience and also from stakeholder feedback is popular and hence we scored the LATC a 3 (still not as popular as 'Remaining In House'). The additional mark, giving the 'LATC with Barnet Homes' a 4, was as a result of it being a known example and a relatively successful organisation with those important links to the Council and the Council brand.

### **Council**

Again the 'Closure' option would find no favour within the Council as it does not provide the necessary solution or sustainability for the future nor does 'Remaining In House' though this may continue to appeal to some Members hence the slightly higher score 2. There may well be divergence of opinion between some Members and some Officers on the acceptability of the 'Tender/Trade Sale' option, where some Members may prefer a solution that takes the services away from any Council influence (outside of the contract). Alternatively transfer beyond the LATC option means that there is no significant influence that can be exerted. Some Officers, for instance, within the Commissioning and Assessment teams may see advantages in retaining the 'special relationship' that they currently have with these services, especially in relation to dealing

with situations of market failure or wanting to test new models of provision. They will also be mindful of the vulnerability of the service user groups and the need to ensure the wider stakeholder acceptability of such a transfer. Previous experiences of service transfers can also impact on perceptions of both Members and Officers of this particular option. We therefore scored this option with a 3 respecting the relative viewpoints of different parts of the Council.

We scored the Social Enterprise solution with a 3 because whilst this has significant merit in its value base and it is and it does achieve complete independence it is a relatively unknown quantity which would be 'on its own' post transfer and therefore poses some risks. This is becoming an increasingly popular solution within national government for public sector provider services, especially the notion of employee cooperatives.

On the whole the relative merits of both 'LATC' solutions meant that we scored them with a 4. This solutions does not have to be an end point as all other options could ultimately prevail after a period of commercialisation of these services but it does provide the Council with an opportunity to: achieve the required independence, test these services in the market place, achieve efficiencies, satisfy the personalisation agenda and probably achieve the most favourable stakeholder 'buy-in' for services that are difficult to provide and sensitive in their nature.

### **Staff**

As previously described staff sign up to the transfer of their employment to another organisation is vital in services that can be so sensitive, complex and at times challenging to provide. These are vital services to the most vulnerable people within our society and therefore having a quality, motivated, committed and sustainable workforce is vital. Continued growth and development in their work is an important pre-requisite to having a dedicated quality workforce. Inevitably 'Closure' would be unacceptable to them. Whilst many would prefer to retain the status quo they do recognise the impact that personalisation will have on their services and accept that change is inevitable. From the staff that CHS spoke to they do have preferences and following previous experience when they were on the verge of transfer to an independent organisation which was called off at the eleventh hour they are suspicious of the tender / trade sale option hence its lowly score of 1.

There is a great deal of motivation amongst staff for having a stake in their employment and ultimate destiny either as a social enterprise or within an LATC. However it has to be acknowledged that the motivation of managers of the services for these options is greater than that of front line staff as they have a greater understanding of the threat that their service is under and also a greater appreciation of the opportunities. We have therefore scored these options with a middle range 3.

## **Value for Money**

Whilst value for money has always been an important driver with the public sector spending review and inevitable high saving targets it takes on a profound new importance. The scoring of this criterion is based on cost of the services ongoing and cost of implementing a solution whilst also taking in to account quality and risk. Not surprising 'Closure' and 'Remaining In House' score poorly. We also scored 'Tender/Trade Sale' with a relatively low 2 as the short term nature of the contract and therefore potential for 'risk pricing' would put an additional premium on the costs of the TUPE'd staff. The costs of procurement for this option would also be significant for this option, though this should not necessarily drive the final solution. We scored the 'Social Enterprise with and 'LATC' options with a 3 as whilst these will have opportunities to make savings on back office costs there may need to be compromise on continuing to utilise some of the LBB Corporate services at least in the first instance, however these are likely to be less than those currently incurred though the high level of recharge. Equally unless LBB chooses to take a proportionate saving on the underutilised recharge then little benefit will be achieved on this element. The transactional costs of achieving the implementation of the LATC will be less due to not needing to follow a procurement process. In our view the 'LATC with Barnet Homes' options provides the best value for money option hence it's score of 4 as it already has a set of functioning back office services and the shareholding arrangement will mitigate the need to risk price the contract. Again transactional costs should be significantly lower.

## Appendix B – *Teckal* Exemption Considerations

Outlined in the table below are the features associated with an LATC which are consistent and those which are inconsistent with the *Teckal* two-pronged test relating to ‘control’ and ‘essential activity’.

CONSISTENT	INCONSISTENT
share capital in the company is to be held by the contracting authority (99% ownership by an authority was held to be acceptable)	Participation by private interests in the company
Mandatory compliance by the company with the contracting authority’s instructions/demands in the areas covered by its objects ( <b>for the avoidance of doubt this requirement should be expressed in the company’s memorandum and articles of association</b> )	The company having the freedom to fix the ‘tariff’ for the services it provides
the company’s relationships with the authority are in every respect ‘internal, dependant and subordinate’ (as above, <b>this should be expressed in the company’s memorandum and articles of association</b> )	Relationship between the company and authority being contractual
Essential part of the activities of the company are to be carried out for the contracting authority (it has been held that 90% is sufficient to constitute “the essential” part of its activities)	The company dedicating more than a minor proportion of it’s activities/services to the open market
Decisive persuasion by the contracting authority over significant decisions of the company	The company taking unilateral decisions on key objectives contrary to the Authority’s requirements
The administration of the Company being relatively independent	The appointment of a private third-party company to manage the company (this is indicative of its members not exercising sufficient level of control)
“Control” can be exercised jointly by several public authorities that own a company	“Control” exercised jointly by several public authorities where there is the addition of private participation

## **Appendix C**

# **Adult Social Services Equality Impact Assessment (EIA)**

## **Questionnaire**

Please refer to the guidance before completing this form.

<b>1. Details of function, policy, procedure or service:</b>	
Title of what is being assessed: More Choices Project	
Is it a function, policy, procedure or service? Project affecting Adult Social Services	
Department and Section: Adult Social Services	
Date assessment completed: Ongoing	
<b>2. Names and roles of officers completing this assessment:</b>	
Lead officer	Richard Harrison
Stakeholder groups	
Representative from internal stakeholders	Jane Surtees, Maggie Goff, Rachael Lindsay, Simon Meredith.
Representative from external stakeholders	
ASSD Equalities Network rep	Rachel Williamson, Andrew Serlin, Julie Pal
Performance Management rep	Mathew Kendall
HR rep (for employment related issues)	Manjit Lall
<b>3. Full description of function, policy, procedure or service:</b>	
<p>Please describe the aims and objectives of the function, policy, procedure or service  <i>Please include - why is it needed, what are the outcomes to be achieved, who is it aimed at? Who is likely to benefit? How have needs based on race, gender, disability, age, religion/belief, sexual orientation or carers been taken account of? Identify the ways people can find out about and benefit from the proposals. Consider any processes they need to go through or criteria that we apply to determine eligibility.</i></p> <p>The More Choices Project will change the way people receive Adult Social Services to enable service users to have more choice and control over their own support. This is part of the national Personalisation Agenda and therefore all councils are making these changes to ensure people can get the social care support that best meets their needs.</p> <p>The change to social care support means service users will have Personal Budget to spend on their social care support to buy Adult Social Services instead of the council providing the services in-house. The service user will be in control of their Personal Budget which may be spent in a way which they could not have done before including the purchase of support</p>	

services from alternative providers. Everyone who receives support from Barnet Council will have a Personal Budget by December 2011.

Changing how social care services are run will help people to have more choice and independence when they spend their Personal Budget. The law states that people cannot use their Personal Budgets to buy services that are run by the council therefore we need to change the way that these services are run so that people can use them with their Personal Budget. To do this, the More Choices project is investigating the creation of a Local Authority Trading Company. If this does not happen, people with a Personal Budget will not be able to use services that are now run by Barnet Council

A number of services will be affected by the change (see list below). This Equalities Impact Assessment considers the impact on service users who attend these services, their carers and the staff who work in these teams. Recent snapshot data has been collected to understand the profile of the staff and service users at these services. This data is used to inform answers to the equalities questions below.

### **Learning Disability Services**

- Rosa Morison
- Flower Lane
- The Space
- Agatha House
- Valley Way
- Supported Living
- The Community Support Team
- Business Support Team

### **Mental Health Services**

- The Network

### **Physical and Sensory Impairment Disability Services**

- Barnet Independent living Services

The intention is to ensure services stay as good as they are now and retain staff who work at each of these services should they wish to remain. However, there will be a need to be a change in the company that runs the service instead of the council, the management of staff and service users will need to begin buying services with their Personal Budgets as they would with all other support.

The project is the first building block to establish the set up of the company. In the future, these services may change if people want to use their Personal Budget to buy different kinds of support. If not enough people choose to use these services, there is a chance that they could stop running. However, if lots of people want to use them, changes can be made to make them better.

This project is part of the OneBarnet programme that the Council is running. This includes activities to support people to live independently and to make Barnet a good place to live.

- The next stage explores how a Local Authority Trading Company could work

- This will be covered in the Full business case and business plan for completion by December 2010.
- Consultation with service users, carers and staff
- Cabinet decision by March 2011
- With a view to setting up the Local Authority Trading company in April 2011
- A full staff TUPE transfer will then immediately follow.

A communications and engagement plan has identified the various needs of groups such as easy read for people with learning disabilities and also provides a roadmap for service user (including carers and families), staff and union consultation.

The Equalities Impact Assessment will be an iterative process with reviews at each critical project milestone and will become more specific as the solution becomes clearer. These stages are:

- Stage 2 - During the assessment (alongside the full Business Case)
- Stage 3 - Implementation (LATC set up)
- Stage 4- Integration/ shadow period
- Stage 5 – Project Closure (Handover to the LATC for BAU)

It should be noted that there are significant differences for each of the in-house services that may have a bearing on the equalities impacts of the changes. As way of introduction some details about each service are included below

### **The Network**

The Network has recently been reconfigured. The Network provides specialist day provision for solution focused work on recovery and inclusion in the community. It incorporates a non charging enablement service which lasts from 3 weeks to 12 months and some additional pre-enablement work. There is an additional longer term peer support service 'Friends in Action' that has been identified as a possible future CIL service. 'Friends in Action' have long arm support from Network resourced by 1.5 FTE link workers, with some additional resource from Community Access workers who are linked to this activity.

All new service users receive a Personal Budget and support plan with a key worker. However they do not currently pay for Network services. This could be considered as a 'managed' part of their budget. Equally

The previous day provision was longer term and some existing services are still moving through enablement and FIA services. However staff planning assumed that 150 clients would be seen a year. As the service develops the throughput will become clearer.

- Mental health budgets are on average smaller than other services.
- Currently charging to people who live elsewhere and self funders.
- Network services do not continue for more than one year. The enablement service last from 3 weeks to 12 months. They may also do some pre-enablement work.
- Some longer term service users moving through the enablement and FIA group.
- Staff planning was worked up on the basis that 150 clients would be seen in a year.
- This time next year will have a better picture of throughput. Numbers of people being referred will increase.
- They are seeing more young people coming through the service.

- There is more individual work and a more personalised service
- MH Trust staff & NHS staff involved
- This projects has dependencies with the project to improve the Resource Allocation System

### **Barnet Independent Living Service**

- Barnet Independent Living Service offers a range of support for Barnet residents with a physical or sensory impairment. From April 2009, this service replaced the previous day services based at Flightways Resource Centre.
- The new service forms a partnership between Adult Social Services staff (Barnet Independent Living Team) and the user led organisation BDISC (Barnet Disability and Independence Steering Committee). It provides a wide range of services from peer support to preparation for getting paid employment, which aims to improve peoples' quality of life and enable them to maximise their potential to live independently.
- Support is provided under three broad categories; employment and training, rehabilitation and enablement and promoting independence. Referrals for support from the Adult Social Services Barnet Independent Living Team will need to have been assessed by a Care manager under the Fair Access to Care Services (FACS) criteria to qualify for the service
- However individuals who require information and advice or would like to access social or self help activities through BDISC can talk to the BDISC directly.
- The service has developed particular models of peer support to respond to particular needs. This is working well
- BILS working across communities, FACs eligible and lower level needs. Staff report that it is important that it retains equality of access.
- There are fears that personal budgets will decrease the amount of resources input.
- Drop in is an important part of the service and there are questions about how this could be costed as part and individual budget.
- Some clients have been using the service for up to 20 years

### **Learning Disability Services**

- The Learning Disability Services include the widest range of services; composed of day opportunities, residential care, crisis and respite care, supported living, community access and business support services.
- A number of people with a learning disability have taken up paid work tasters and work experience in the service. These individuals may have been supported to apply for jobs and received on the job support.
- A numbers of people receiving support from the Community Support Team already have a Personal Budget. The Community Support Team had been supporting people through the Personal Budget Questionnaire and support planning process.
- People from other boroughs use the service, they are charged
- Some people may have 1:1 support funded through their care package, this is additional to normal costs for settings
- Some therapy input in settings from external staff or freelancers
- Different types of service will have different hourly rates. This is not reflected in the Direct Payment rate.
- Supported Living links housing and support. There is an option if someone receives a direct payment to choose own support, however this risks the sustainability of the current model of

support.

- Crisis bed is available at Valley Way in cases of carer breakdown, or emergencies. It is allocated on the basis of need and until more permanent housing is found. This is a core cost to the service.
- Day services are currently at capacity, there isn't a specific emergency allocation.
- A number of service users at Rosa Morrison and one service user at Valley Way are funded by Continuing Care funding

All services report particular issues around;

- Unpredictability of support requirements. Need for sliding scale of support & resource in order to meet needs.
- For PSI and LD service users, whilst annual and 6 monthly reviews may happen in services in house services do not have access to SWIFT and rely on social work teams to input the latest review information.
- A number of services provide enablement services. These services are not chargeable. Any business plan needs to take this into account and it should be reflected in communications

4. How are the equality strands affected? Please detail the effects on each equality strand, and any mitigating action you have taken so far			
Equality Strand	Affected?	Explain how affected	What action has been taken already to mitigate this?
1. Age	Yes <input checked="" type="checkbox"/> / No <input type="checkbox"/>	<p><b>Service Users</b></p> <p>As this is just a transfer of existing operations the direct impact is none. However, the implementation of the personalisation agenda should increase choice and control for individuals. As individuals who do not already have a Personal Budget go through the support planning process and gain an individual allocation they may choose support that is more appropriate for their individual preferences and/or needs, including some that may relate to their age. This may have a positive impact on meeting equality obligations.</p> <p>It is recognised as we move to a more consumer led model; services could be subject to change if demand decreases.</p>	<p><b>Service Users</b></p> <p>Ongoing communication and support through the change will be very important.</p> <p>There will be further consultation and support for any business related changes.</p> <p>Requirements for future support for service users will be included in the contract with the future service provider (which will be at least 99% council owned), including additional support for those who need it to participate in Self Directed Support</p> <p><b>Staff</b></p> <p>Individual contract review to ensure all are up to date and consistent with the TUPE</p>

		<p>Service user data has reflected older service user age profile with a low numbers of service users under 30 on average. There are fewer younger people. This could be because they are accessing a wider range of services rather than day centre provisions.</p> <p>Therefore this change will disproportionately affect older people using the services.</p> <p>Many or the day centre users have used services for some time and become accustomed to this routine. They may find any subsequent change more difficult.</p> <p>The DoH (2008) evaluation of Individual Budget pilots found that satisfaction was lowest amongst older people and that a substantial proportion of older people found taking control of their care 'a burden'.</p> <p><b>Staff</b></p> <p>The in-house services workforce is on average older than the rest of the department's workforce – in particular there are 13 in-house employees aged 65 or over.</p>	<p>transfer.</p> <p>The intention is to maintain the same pension entitlement, terms and conditions.</p> <p>Revisit when the terms of the contract are better understood.</p> <p>There are no planned HR policy changes relating to age.</p> <p><b>Both Groups</b></p> <p>To revisit when draw up SLA with the Local Authority Trading Company.</p>
<p>2. Disability</p>	<p>Yes <input checked="" type="checkbox"/> / No <input type="checkbox"/></p>	<p><b>Service Users</b></p> <p>As this is just a transfer of existing operations the direct impact is none. However, the implementation of the personalisation agenda should increase choice and control for individuals. As individuals who do not already have a Personal Budget go through the support planning process and gain an individual allocation they may choose support that is more appropriate for their individual preferences and/or needs. This may have a positive impact on meeting equality obligations.</p>	<p><b>Service Users</b></p> <p>There is a stream of work to understand the costs to an individual for attending each of the services and also current and future access to individual budgets for service users. It is important that any issues of eligibility or affordability are understood as soon as possible.</p> <p><b>Staff</b></p> <p>As above (section 1)</p> <p>Data indicates that remaining</p>

		<p>It is recognised as we move to a more consumer led model; services could be subject to change if demand decreases.</p> <p>We have not, to date, mapped the numbers of people with a personal budget using the in-house services. Some people will not currently receive a Personal Budget and therefore the planned Support Planning and Resource Allocation process may result in changes for individuals.</p> <p>In order to ensure that the different needs of the groups involved are met (ie people with physical or learning disabilities, or with mental health problems, there must be a level of expertise within the LATC to ensure that appropriate skills and knowledge of staff who deliver services can be supported</p> <p><b>Staff</b></p> <p>Although a similar percentage of people are recorded as having a disability in the in-house services as in the rest of the ASSD workforce, the in-house services do employ 39% of Barnet disabled workers. The transfer of these services could have an implication in terms of how the public view our treatment of disabled employees.</p> <p>Within these services peer support is an important model of service delivery and policies to encourage people with a disability to apply for posts are being developed. For example, through the Right 4 Work project and others.</p> <p>The Network has a policy actively encouraging applications from staff who have experienced mental health difficulties. The</p>	<p>Barnet staff will be less diverse due to the transfer of Adult Social Services listed in section 3. The Local Authority workforce profile should reflect the profile of the local population. This issue should continue to be monitored through the HR data collection. It may be that targeted work should be undertaken to address this issue in the future.</p> <p><b>Both Groups</b></p> <p>To revisit when drawing up SLA.</p>
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		<p>LATC would need to continue in order that there is no negative impact.</p> <p>Service managers have recognised that the staff data does not reflect their understanding of the workforce. There is known to be an underreporting of disability, especially mental ill health.</p>	
<p>3. Gender reassignment</p>	<p>Yes <input type="checkbox"/> / No <input checked="" type="checkbox"/></p>	<p><b>Service users</b></p> <p>As this is just a transfer of existing operations the direct impact is none. However, the implementation of the personalisation agenda should increase choice and control for individuals. As individuals who do not already have a Personal Budget go through the support planning process and gain an individual allocation they may choose support that is more appropriate for their individual preferences and/or needs. This may have a positive impact on meeting equality obligations.</p> <p><b>Staff</b></p> <p>This data is not currently collected by HR however, HR policies relating to this equality strand will be transferred.</p>	<p><b>Both Groups</b></p> <p>To revisit when drawing up SLA.</p>
<p>4. Pregnancy and maternity</p>	<p>Yes <input type="checkbox"/> / No <input checked="" type="checkbox"/></p>	<p><b>Service users</b></p> <p>As this is just a transfer of existing operations the direct impact is none. However, the implementation of the personalisation agenda should increase choice and control for individuals. As individuals who do not already have a Personal Budget go through the support planning process and gain an individual allocation they may choose support that is more appropriate for their individual</p>	<p><b>Both Groups</b></p> <p>To revisit when drawing up SLA.</p>

		<p>preferences and/or needs. This may have a positive impact on meeting equality obligations.</p> <p><b>Staff</b></p> <p>As this is just a transfer of existing operations the direct impact is none based on the assumption staff terms and conditions are transferred across to the new delivery vehicle.</p>	
<p>5. Race / Ethnicity</p>	<p>Yes <input checked="" type="checkbox"/> / No <input type="checkbox"/></p>	<p><b>Service Users</b></p> <p>Using the data available (subject to gaps and potential errors), there appears to be:</p> <p><u>Community Network</u></p> <p>30% of users belong to a BME group – 9% are Black/Black British, 11% are Asian/Asian British</p> <p><u>Learning disabilities service</u></p> <p>31% of users belong to a BME group – 10% are Black/Black British, 16% are Asian/Asian British</p> <p><u>BILS</u></p> <p>39% from a BME group – though again categories used may cause some errors</p> <p>There will be a need to maintain culturally appropriate services and communications will be made available in alternative formats (upon request)</p> <p><b>Staff</b></p> <p>47% of the workforce affected belong to a Black or Minority Ethnic group. This compares to 39% amongst Adult Social Services staff overall, but 72% amongst adult social care</p>	<p><b>Service Users</b></p> <p>Monitor and revisit when drawing up SLA.</p> <p>Ensure service user data is kept up to date on databases. Service user feedback should be coded alongside demographic data to unpick whether there are any issues or concerns among any particular demographic group.</p> <p><b>Staff</b></p> <p>Revisit when SLA</p>

		<p>providers. So there is a high representation of BME employees amongst the staff to be affected. 35% of the workforce is Black or Black British. This compares to only 23% amongst the wider Adult Social Services workforce</p> <p>There will be an attempt to retain the diversity of the workforce through contract clauses to enable future recruitment of a representative workforce.</p>	
<p>6. Religion or belief</p>	<p>Yes <input checked="" type="checkbox"/> / No <input type="checkbox"/></p>	<p><b>Service Users</b></p> <p>As this is just a transfer of existing operations the direct impact is none. However, the implementation of the personalisation agenda should increase choice and control for individuals. As individuals who do not already have a Personal Budget go through the support planning process and gain an individual allocation they may choose support that is more appropriate for their individual preferences and/or needs. This may have a positive impact on meeting equality obligations.</p> <p><b>Staff</b></p> <p>There are significant data gaps. Barnet HR policies are to be maintained post transfer to prevent any negative impact.</p>	<p><b>Service Users</b></p> <p>Monitor and revisit when drawing up SLA.</p> <p><b>Staff</b></p> <p>HR policy to be maintained by new provider post transfer</p>
<p>7. Gender / sex</p>	<p>Yes <input checked="" type="checkbox"/> / No <input type="checkbox"/></p>	<p><b>Service Users</b></p> <p>As this is just a transfer of existing operations the direct impact is none. However, the implementation of the personalisation agenda should increase choice and control for individuals. As individuals who do not already have a Personal Budget go through the support planning process and gain an individual allocation they may choose support that is more</p>	<p><b>Both Groups</b></p> <p>To revisit when drawing up SLA.</p>

		<p>appropriate for their individual preferences and/or needs. This may have a positive impact on meeting equality obligations. For example where service prefer single sex support or activities.</p> <p><u>Community Network</u></p> <p>58% of service users on system are female</p> <p><u>Learning disabilities service</u></p> <p>49% of service users are female</p> <p><u>BILS</u></p> <p>53% of service users are female</p> <p><b>Staff</b></p> <p>76% of the staff affected are female. This is in line with the rest of the Adult Social Services workforce. Amongst the wider social care market, an even higher proportion of women are employed in provider organisations.</p> <p>This change will disproportionately affect female employees.</p>	
<p>8. Sexual orientation</p>	<p>Yes <input type="checkbox"/> / No <input checked="" type="checkbox"/></p>	<p><b>Service Users</b></p> <p>This data is not currently collected however; the new delivery vehicle will need to consider service user feedback, including the feedback from the 'Get Aware' event (2009)</p> <p><b>Staff</b></p> <p>There will be no impact. There will be a continuation of Barnet policies and procedures to recognise implicit discrimination.</p>	<p><b>Both Groups</b></p> <p>To revisit when drawing up SLA.</p>
<p>9. Marital Status</p>	<p>Yes <input type="checkbox"/> / No <input checked="" type="checkbox"/></p>	<p><b>Service Users</b></p> <p>New service provider will need to consider any service user feedback, including the feedback from the 'Get Aware' event</p>	<p><b>Both Groups</b></p> <p>To revisit when drawing up SLA.</p>

		<p>(2009)</p> <p><b>Staff</b></p> <p>There will be no impact. There will be a continuation of Barnet policies and procedures relating to civil, conjugal and common law partnerships to recognise implicit discrimination.</p>	
<p><b>10.</b> Carers (discriminated by association)</p>	<p>Yes <input checked="" type="checkbox"/> / No <input type="checkbox"/></p>	<p><b>Service Users</b></p> <p>Carers of those attending day centres may be involved in an individuals support planning process, attendance at a day centre may also offer respite to a family carer.</p> <p>Therefore communication and engagement activities must include carers and family carers.</p> <p><b>Staff</b></p> <p>Barnet staff who are also carers may be affected. The flexible working policy will be retained post service transfer.</p>	<p><b>Both Groups</b></p> <p>To revisit when drawing up SLA.</p> <p>Communication and support during consultation and engagement.</p> <p>There will be further consultation and support for any business related changes.</p>

**5. What are the number, types and severity of disabilities in play in this case?**

**Service users**

The Social Services and Mental Health Trust databases (SWIFT and Rio) do not currently record disability categories. The Strategic Commissioning Team are progressing a business case with the Business Systems team to address this.

There is information held on client files that relates to any particular disabilities or health conditions. This is likely to be defined by diagnosis rather than self definition.

The Diversity Monitoring form used by Barnet Adult Social Services asks for demographic profile including type of disability. This allows for feedback to be analysed along demographic profiles where numbers are large enough to be statistically significant.

All the people who use the in-house service will have, at some point, received an assessment that judged the individual to be eligible for support. This is based on an assessment of risk (and need) rather than disability. Over the years eligibility criteria and interpretation of these criteria has changed. We currently use Eligibility Criteria for Adult Social Care criteria (substantial and critical risk) and the Care Programme Approach in mental health services.

The introduction of Personal Budgets for Service Users will involve a full review.

Very broadly, the numbers of people with a disability defined by LBB care groupings is as follows;

180 people using the Network with mental health problems (SWIFT data)

49 people using BILS with Physical and Sensory Impairment recorded on SWIFT.

There are 230 people using the in house Learning Disability services (recorded locally), however some people may use more than one service which is not reflected in the numbers.

**Staff**

Based on staff HR files, the following information is available on % of staff defining themselves as having a disability.

DISABILITY		
	All in-house services	Rest of ASSD
Yes	2%	3%
No	97%	95%
Not recorded	1%	2%

There is currently no information available about the severity of the disability, although line managers should have an understanding of this as part of the workplace assessment process.

Service managers have recognised that the staff data does not reflect their understanding of the workforce. There is known to be an underreporting of disability, especially mental ill health however, it is noted that staff are at liberty to decide whether or not to disclose information of their disability and severity.

**6. What are the actions that could reduce the impact on people with disability?**

The council has policies and procedures in place to promote equality of opportunity and eliminate discrimination on the bases of disability and these will need to be maintained and included in the delivery vehicle contract.

There will be targeted and accessible communications to keep people informed (e.g. easy read/different formats). Information will be made accessible through channels listed in section 12. There will be support for service users during the period of change – e.g. support from a keyworker with Self Directed Support.

Staff terms and conditions such as “reasonable adjustments’ in the workplace according to disability will be will be transferred and maintained.

The people and culture work stream and consultation will support staff issues in addition to informing and receiving feedback from the unions.

**7. What will be the impact of delivery of any proposals on satisfaction ratings amongst different groups of residents**

The process of change or the result of change may result in different satisfaction ratings amongst groups of residents. There may be changes amongst those who use the services particularly as the branding of the LATC is currently unknown. Therefore it is difficult to anticipate the impact of the proposal on Barnet’s reputation. However, this will be monitored and measured by staff surveys, SLA clause for LATC (staff survey) and the Place survey (external residents’ feedback).

Feedback from DoH (2008) evaluation of Individual Budget pilots found the following;

- People using Individual Budgets were more likely to feel in control of their lives than people receiving conventional social care support.
- Satisfaction varied between client groups and as highest among mental health service users and physically disabled people, and lowest among older people.
- A substantial proportion of older people felt that taking control of their support was a 'burden'.

However, Department of Health officials pointed out that the evaluation period ran from November 2005 to December 2007, and that things had improved since in the pilot areas. In particular, they have argued, the concerns of older people about individual budgets have abated and take-up has improved.

**8. How does the proposal enhance Barnet’s reputation as a good place to work and live?**

Branding is currently unknown. Barnet’s reputation could be better or worse as a result of the change. This will be monitored and measured by staff surveys, SLA clause for LATC (staff survey) and the Place survey (external residents feedback).

The Communications plan addresses key stakeholder groups and will be used as a tool to control reputation changes.

**9. How will members of Barnet’s diverse communities feel more confident about the council and the manner in which it conducts its business?**

### **Individual budgets – Increasing choice and control**

The implementation of the personalisation agenda will provide eligible people with the opportunity to increase choice and control over purchased services, whether council managed or otherwise provided. As individuals who do not already have a Personal Budget go through the support planning process and gain an individual allocation they may choose support that is more appropriate for their individual preferences and/or needs. The council would anticipate that this would have a positive impact and support its obligation to meet its statutory equality duties.

Direct payments, personal budgets and, to a lesser extent, individual budgets are at the core of the government's aim of personalising adult social care services around the needs of users. Through the [Putting People First initiative](#), councils will be expected to significantly increase the number of people receiving direct payments and roll out a system of personal budgets for all users of adult social care, from 2008-11. In the long-term all users should have a personal budget from which to pay for their social care services, apart from in emergencies.

Putting People First is the culmination of a policy process that began in 2005, with the adult social care green paper, *Independence, Well-being and Choice*, and was developed through the 2006 health and social care white paper *Our Health, Our Care, Our Say*.

The Department of Health is driving the Putting People First initiative, but scepticism remains among practitioners and social care leaders about the impact of personalisation on social workers' roles, on levels of risk carried by service users and about whether councils will be adequately resourced to deliver reform.

### **Transfer of Council activity to a Local Authority Trading Company**

The London Borough of Barnet commissioned a Lessons Learned report from PriceWaterHouse Coopers of previous service outsourcings.

This recognised the following 'The majority of outsourcing arrangements reviewed as part of this work are delivering effective, and in many cases, high levels of services. Whilst many of the deals were procured some years ago, through standard procurement processes and within relatively traditional delivery vehicles, a number of lessons learned have been identified. These lessons should be used to inform the design, procurement and client side management of any new delivery vehicles, considered as part of the future shape project.'

In order that the council feels more confident about the Council and the way it does its business PWC recommended that the following 6 criteria are applied to any future transfers

**1. To recognise the need and purpose for partnerships by establishing what successful working arrangements are.** This will mean that the Council and its partner(s) acknowledge:

- the principal barriers to successful partnership working,
- there is a mutual understanding of those areas of activity where Partners can achieve some goals by working independently of each other and
- that both sides build customer satisfaction at the heart of the purpose of the venture.

**2. To develop clarity and realism of purpose** by ensuring that the partnership has a clear vision, shared values and objectives underpinned by agreed service principles.

- clearly defined joint aims and objectives (which are realistic)

- clearly defined service outcomes.

**3. To ensure commitment and ownership** by:

- demonstrating clear commitment to Partnership working from the most senior levels of the organisation,
- employing widespread ownership of the Partnership across and within all Partner organisations and
- Ensuring that working outside of the Partnership is discouraged and dealt with.

**4. To develop and maintain trust** by being clear about the way the Partnership is structured and recognizes and values each Partners contribution.

- benefits derived from the Partnership must be fairly distributed among all Partners
- levels of trust within the Partnership must be high
- shared risk taking.

**5. To develop clear and robust partnering arrangements** by:

- being clear as to what financial resources each Partner brings to the Partnership,
- that resources that each Partner brings to the Partnership are understood and appreciated
- that each Partner's area of responsibility is clear and understood with strong lines of accountability for the performance of the Partnership as a whole and
- The Partnership's principal focus is on process, outcomes and innovation.

**6. To monitor, measure and learn** by ensuring that each Partner has clear success criteria in terms of both service goals and the Partnership itself. The Partnership must:

- have strong monitoring and management arrangements
- clear and robust structure that enables the Partnership's aims, objectives and working arrangements to be reconsidered and, where necessary, revised in the light of monitoring and review findings but also changing customer and delivery requirements.

It is important that any consultation considers monitoring against different demographic characteristics. Coding will unpick whether there are any issues or concerns among any particular demographic group

**10. What measures and methods have been designed to monitor the application of the policy or service, the achievement of intended outcomes and the identification of any unintended or adverse impact?** *Include information about the groups of people affected by this proposal. Include how frequently will the monitoring be conducted and who will be made aware of the analysis and outcomes? Include these measures in the Equality Improvement Plan (section 14)*

Please refer to draft engagement and communications plans for:

- Service Users, Carers and Parents
- Staff and Trade unions

For further information contact: Richard Harrison, Project Manager x2109

Please also see section 14

**11. How will the new proposals enable the council to promote good relations between different communities?** *Include whether proposals bring different groups of people together, does the proposal have the potential to lead to resentment between different groups of people and how might you be able to compensate for perceptions of differential treatment or whether implications are explained.*

As this is just a transfer of existing operations there will be no real change directly impacting upon communities. However, we are confident that the implementation of the personalisation agenda will increase choice and control for individuals to purchase more inclusive activities.

**12. How have residents with different needs been consulted on the anticipated impact of this proposal? How have any comments influenced the final proposal?** *Please include information about any prior consultation on the proposal been undertaken, and any dissatisfaction with it from a particular section of the community.*

There are planned activities to consult residents and service users in the communications and engagement plan. These include consultation days, 1:1 communication, newsletters (including Easy Read), CommUNITY Barnet website, Barnet First and the Barnet council website.

The communication channels and approach to consultation will be revisited for each critical milestone to ensure this is fit for purpose. Feedback from service users will also inform as to their preferred method of communication.

13. Decision:			
No Impact  <input type="checkbox"/>	Positive Impact  <input type="checkbox"/>	Neutral Impact  <input checked="" type="checkbox"/>	Negative Impact or Impact Not Known <sup>1</sup>  <input type="checkbox"/>

<sup>1</sup> 'Impact Not Known' – tick this box if there is no up-to-date data or information to show the effects or outcomes of the function, policy, procedure or service on all of the equality strands.

### 14. Equality Improvement Plan

Please list all the equality objectives, actions and targets that result from the Equality Impact Assessment (continue on separate sheets as necessary). These now need to be included in the relevant service plan for mainstreaming and performance management purposes.

Equality Objective	Action	Target	Officer responsible	By when
Service users and carers and staff in the in-house services understand the changes and feel supported through the change	Implement Communications plan	Written communication sent to all service users and carers.	Project manager with support from Adults SMT.	Beginning October 2010 and ongoing throughout the project lifecycle as per communications and engagement plan.
SLA with future Local Authority Trading Company, reflects current policy regarding equalities duties and provision of appropriate services	Include appropriate contract clauses in SLA Consult with service reps and staff on the draft SLA	Add consultation and review activities to the 'More Choices' project plan	Project manager	December 2010
Support individuals disproportionately affected by proposals, for example where Individual Budgets do not cover the cost of the service or eligibility criteria exclude individuals	Find out costs of in-house services	Include within detailed analysis of the business case.	Project manager	November 2010
	Monitor current and future access to individual budgets. Put in place plans to support individuals with the changes Raise as an issue with Care Services Delivery	Raise issue with Care Services Delivery for support in place. Impact of change is managed and where possible, minimised	Project manager	December 2010

<b>Equality Objective</b>	<b>Action</b>	<b>Target</b>	<b>Officer responsible</b>	<b>By when</b>
Lessons are learnt from roll out of personal budgets elsewhere, to ensure that those who will find the change the most difficult are supported	To be included in analysis - considering risk of support not being available	Benchmark with other local authorities for inclusion within Full Business Case analysis.	Project manager	December 2010
Lessons are learnt from outsourcing initiatives elsewhere, for example the PWC Lessons Learnt report to ensure that Barnet's diverse communities have confidence in the way that Barnet does business	To be included in analysis.	Inclusion within the Full Business Case	Project manager	November 2010
Equalities considerations are key throughout the project as plans become clearer	Review Equalities Impact Assessment and plan at key points during the project as plans	Review activities are added to the 'More Choices' project plan at key points	Project Manager	December 2010
Lessons are learnt from the experience of Direct Payments and personalisation in Barnet	Add learning from Direct Payments and personalisation	Add information to second iteration of the EIA	Rachel Williamson	November 2010
Lesson are learnt from staff changes as part of the Care Model Development project around managing change	Add learning from Care Model Development project around managing change	Add information to second iteration of the EIA	Rachel Williamson	November 2010

**1<sup>st</sup> Authorised signature (Lead Officer)**

**2<sup>nd</sup> Authorised Signature (Member of SMT)**

**Date:**

**Date:**