



**Executive**  
9 December 2013

**Report from the Strategic Director of  
Environment and Neighbourhoods**

Wards Affected: ALL

**Brent and Barnet Registration and Nationality Service**

**1.0 Summary**

- 1.1 This report sets out proposals for formalising the current arrangements for shared management of Registration and Nationality services between the London Boroughs of Brent and Barnet through a merger of the two services involving the TUPE transfer of Barnet's staff to Brent, and Brent then providing Barnet with its registration services.
- 1.2 The report sets out details of the proposed model, and recommends that Members agree to establish such a shared service, initially for a five year period.

**2.0 Recommendations**

- 2.1 That the Executive notes the proposal for the operation of a shared Registration and Nationality service between Brent and Barnet and the financial and non financial benefits and risks identified.
- 2.2 That the Executive notes that Barnet, through its Cabinet Resources Committee has already agreed in principle to proceed with this proposal subject to Brent's agreement.
- 2.3 That the Executive agrees to proceed with the shared service proposal by Brent delivering services to Barnet, for an initial period of five years from 1 April 2014.
- 2.4 That the Executive delegates the agreement of the terms of the Inter Authority Agreement governing the shared service to the Strategic Director of Environment and Neighbourhoods in consultation with the Chief Finance Officer and the Director of Legal & Procurement, to include deciding on whether the shared service will take the form of Barnet delegating its registration function to Brent or Barnet awarding a contract for services.

## 3.0 Detail

### Background

- 3.1 Since 2010 the Head of Brent's Registration and Nationality Service has also managed the Barnet service. The arrangement originally to assist in a crisis, worked well for Barnet and was continued as this resulted in savings on the salary costs of the Head of Service for both councils with Barnet paying Brent some of the annual saving each year.
- 3.2 Subsequently Brent has taken on telephone enquiries and bookings for Nationality and Settlement Checking (NCS/SCS) for Barnet and can now allocate appointments across the two boroughs. Because Brent has expanded the capacity for appointments, so that users of this service can usually get an appointment the same week, this has resulted in a significant revenue increase for both authorities as a result of the greater availability of early interview dates for customers.
- 3.3 This arrangement has never been formalised and operates at present on the basis of the good will of both boroughs and an implied, unwritten contract between the two. Either borough could withdraw from it without any notice. This situation is not sustainable in the long term.
- 3.4 Registration Services were originally considered for inclusion in the Barnet Development and Regulatory Services outsourcing package but the delegation of the operational powers to the private sector proved problematic and the service was withdrawn from this package. Barnet have subsequently undertaken an option appraisal of possible different models for service provision and have concluded that a formal shared service with Brent offers the greatest advantage if Brent are willing to collaborate in this way. Barnet are keen to formalise the arrangement with Brent from the start of the 2014/15 financial year, to ensure that their service has greater future security and resilience.
- 3.5 Barnet has the largest population of any London Borough and its population is forecast to increase further with lower average age and increased diversity. These factors will lead to an increase in potential business for the Registration and Nationality Service and consequently an increase in fee income. The service in Barnet is not structured currently to take full advantage of this growth.
- 3.6 Since Brent took over management of the Barnet Service, Barnet's net income has been increased by in excess of £100K. Much of this has been achieved by cross-skilling staff and maximising appointment availability. However, it is believed that there is more that can be achieved, particularly when taking into account the expected population growth. In particular it is anticipated that discretionary income can be increased.

### The Proposal

- 3.7 The proposal that has been developed by officers within Brent and Barnet is for a full shared service between the two boroughs. The key characteristics of this proposal are:
- ◆ Brent would host a shared Registration and Nationality service for the two boroughs.

- ◆ To allow maximum flexibility and efficiency in operation, Barnet staff would transfer to Brent under TUPE and would operate with Brent staff as a single, flexible pool.
- ◆ Barnet would either delegate their Registration and Nationality functions to Brent, or award a contract for services to Brent (see further section 5). Brent would then provide the Barnet service using the pooled staff to exercise those functions in Barnet's offices
- ◆ Barnet would make available their office facilities and wedding venues to Brent for use by the joint service at no charge, Barnet to continue to maintain and manage those facilities as if they were occupied by their own staff and will also carry out improvement works
- ◆ The arrangement would last for an initial period of five years, starting on 1 April 2014, extendable by agreement.
- ◆ Open book accounting would apply and the Brent and Barnet income and service costs kept separate. Baselines would be set for Barnet costs and statutory income and present levels of discretionary income (see further 3.9.3) and projected forward to give an annual management expected surplus which Brent would pay to Barnet.
- ◆ In addition Barnet would receive any growth in discretionary income less an incentive element which would be retained by Brent.
- ◆ Barnet accept that external changes to the operating environment, such as the Home Office crackdown on sham marriages, would be at their risk and would lead to rebasing of income and, where necessary, expenditure.
- ◆ There would be an SLA with an annual service improvement plan targeting further income opportunities and efficiencies
- ◆ The arrangement would be governed by an Inter Authority Agreement.

### **Potential benefits to Brent**

- 3.8 Detailed modelling work undertaken by officers from the two boroughs has identified both financial and non-financial benefits for Brent from the proposed arrangement.

#### **Financial benefits**

- 3.9 The potential financial benefits to Brent of the proposed partnership are significant in the context of the service's budget. They arise in three broad ways.

##### **3.9.1 *Sharing the costs of management and support.***

Under the present arrangements, Barnet make a contribution towards the salary of the Head of Service of £30k per year. The proposal agreed with Barnet will increase this figure to take account of salary related on costs, and will also meet half the cost of the service's Business and Information Officer. This means that the Barnet contribution will rise from £30k to £56k per year.

##### **3.9.2 *Efficiency savings.***

These would arise from the increased scale and flexibility of the proposed service. The proposed target operating structure for the joint service reduces Brent's staffing costs by £74k per annum from the 2012/13 baseline.

### 3.9.3 ***Increases in Barnet's discretionary income.***

Statutory income relates to the registration of births and deaths, taking marriage and civil partnership notices, citizenship and the issue of certificates.. Discretionary income relates to wedding and civil partnership ceremonies, nationality and settlement checking and, potentially, front of house services for the Home Office. The latter is the area where significant growth is possible. Barnet have agreed that there should be incentives for Brent in expanding income in this area. Final agreement on the level of incentive will be reached in the proposed Inter Authority Agreement. All the costs of running the Barnet service would be taken from the statutory income and baseline level of discretionary income with the agreed surplus (ie net income) paid to Barnet.

#### **Non financial benefits**

- 3.10 Customers of both local authority areas would benefit from joint working arrangements. Registration Officers in Brent could be deputised for Barnet and vice versa giving an opportunity for a customer to be able to visit any service point in either local authority. This arrangement would be particularly beneficial on event days at Wembley Stadium when it could prove difficult for customers to attend appointments at the Civic Centre. Brent could continue to provide a service from the Barnet registration outlet in Burnt Oak.
- 3.11 The profile of a shared service will make it easier to ensure early access to new Home Office initiatives such as the devolution of some front of house nationality services to local authorities, ensuring that they work to Brent's advantage.
- 3.12 Resilience in staffing is a key benefit. For a small service of fewer than 20 staff providing seven day a week services, management of staffing risks is an important issue. Having a wider pool of well trained staff (totalling 33fte) will allow greater confidence and resilience in service delivery, as well as underpinning the ability to achieve the staffing efficiencies discussed earlier.

#### **Risks**

- 3.13 Shared services often work by the service-providing authority receiving a fixed fee from the other. The proposal here is different because it will be Brent retaining income to cover not its actual costs but baseline costs. However this is not considered a major risk, because both boroughs' Registration and Nationality Services presently generate a surplus of income over expenditure so in this case baselines have been agreed for both income and expenditure giving an agreed level of surplus which will be paid by Brent to Barnet. Considerable attention has been given to ensuring that the agreed baselines for both expenditure and income are realistic and sustainable since these will be the key elements of risk to Brent.
- 3.14 Barnet have recognised that their service has been under resourced in recent years and have increased their proposed staffing in the baseline from 13fte to 15fte in consequence, and to reflect likely future increases in demand for services as their

population grows. Brent considers that the combined staffing of 33fte will be adequate for the combined service and will not require the incurring of redundancy costs for any of the transferring Barnet staff.

- 3.15 At present some of the Barnet premises are in a poor state of decoration and therefore not attractive as wedding venues to generate discretionary income. Barnet have also identified capital for improvements to their premises, and do not expect Brent to manage these improvement works, which should assist the achievement of growth in discretionary income.
- 3.16 Another risk is future reductions in Barnet-related income as a result of external factors eg Home Office initiatives. This has been mitigated by (a) income forecasts allowing for the anticipated effect of the reduction in marriages as a result of Home Office changes relating to sham marriages and (b) as discussed earlier, Barnet have agreed more generally that the Inter Authority Agreement should provide for rebasing expectations where external changes of this sort occur. Barnet have also agreed that the Inter Authority Agreement should provide for each Borough to meet an appropriate share of any redundancy or severance costs should it be necessary to reduce the size of the service in future.
- 3.17 If the shared service arrangement progresses by way of Barnet delegating its registration function to Brent (as opposed to award of a contract for service by Barnet) then any failure to deliver the Barnet statutory services could result in court action against Brent (see further section 5). However, no court action has been taken against Brent in respect of such a failure for at least the last 20 years implying that this risk is small

## **Conclusion**

- 3.17 The existing arrangement of Brent's Head of Service managing Barnet's service has worked for both Brent and Barnet. Brent have received £30k per annum and some modest additional income from the booking service for nationality checking. Barnet have avoided around £50k per annum additional expenditure on a Head of Service, have had service quality significantly improved, and have generated in excess of £100k per annum additional income. Barnet's wish to put the arrangement on a more formal and permanent arrangement is understandable.
- 3.18 The financial implications below show that the range of expected benefit to Brent from entering into the proposed arrangement will lie between £140k and £160k per annum. Although this is a modest amount in the context of the financial pressures facing the Council, it is significant in the context of an expenditure budget of £948k and it is recommended that this shared service be entered into.
- 3.19 It is further recommended that agreement of the detail of the Inter Authority Agreement be delegated to the Director of Environment & Neighbourhoods in consultation with the Chief Finance Officer and the Director of Legal & Procurement to ensure that implementation can be achieved by 1 April 2014.
- 3.20 Barnet's Cabinet Resources Committee considered a report recommending this proposal on 4 November 2013 and agreed that the preferred future delivery model of the Registration and Nationality service is to implement a shared service model with the

London Borough of Brent, hosted by Brent, and noted that this is dependent upon London Borough of Brent agreeing to the shared service option through its own democratic process. Barnet have delegated powers to their Leader to make all final decisions on the future delivery of this service.

## Financial Implications

- 4.1 The Registration and Nationality service in Brent has an expenditure budget for 2013/14 of £948k with an income budget of £881k giving a net budget cost of £68k. In 2013/14 the service is forecasting expenditure of £1,017k with income of £1,052k giving a forecast surplus of £35k and a positive variance of £103k.
- 4.2 This reflects a pattern over the last couple of years of over achievement of income resulting in surpluses in excess of £100k and the 2014/15 budget proposals have a saving of £100k to be achieved through sustaining these income levels.
- 4.3 The 2014/15 budget proposals also include a further £100k income increase relating to the move to the Civic Centre. This increase is less certain to be achieved since the facilities in the Civic Centre offer few opportunities for increasing Registration and Nationality income, given that there remains only one venue for conducting marriages.
- 4.4 The proposals under consideration here and the financial benefits set out in paragraph 3.9 can be summarised as:

Element	Minimum annual benefit	Maximum likely annual benefit
Sharing Head of Service and Business and Information Officer	* £56k	* £56k
Staffing efficiencies	£74k	£74k
Incentive payment in form of % share in Barnet discretionary income	** £10k	*** £30k
Total	£140k	£160k
“New” benefit	* £110k	* £130k

\* £30k is in the existing budget, but would be lost if the Barnet proposal came to an end, so remains a benefit.

\*\* Based on an assumption of 10% of £100k

\*\*\* Based on an assumption of 20% of £150k

- 4.5 Savings on this scale offer a practical and deliverable way of meeting the additional £100k savings target included in the 2014/15 budget proposals.

## Legal Implications

- 5.1 The statutory regime for the establishment of a registrars' service is in the Registration Service Act 1953 and the service provided by Brent to Barnet will have to comply with these requirements. It will be necessary to satisfy the regulator, the Registrar-General, that the arrangements between the boroughs are sufficient to deliver the legal

requirements. The detailed procedures to be followed by registrars in relation to the registration of births, deaths and marriages are set out in the Births and Deaths Registration Act 1953 and the Marriage Act 1949 plus detailed regulations under these. The role of registrars in relation to nationality checking etc are set out in various Asylum and Immigration Acts and detailed regulations under these. Again, these will need to be complied with.

- 5.2 There are a number of models of shared services. The most informal of these is already happening at present, characterised by co-operation between the authorities and a shared Head of Service. The proposed future arrangement could be set up by way of Barnet either awarding a service contract to Brent, or delegating its entire registration function to Brent. Under the delegation of function arrangement, Brent steps into the shoes of Barnet and becomes legally responsible for discharge of the function (the same model applies for the Brent-Harrow Trading Standards service). As a result, if a Barnet resident suffered detriment due to failure to comply with the legislation, or alleges that their Human Rights have been breached by the way that the legislation is exercised, they would bring action against Brent and not Barnet for this failure. A delegation of function arrangement is therefore of greater risk, though is also neater because there is no need to secure Barnet approvals for activities reserved to Barnet. The legal risk of a delegation can be mitigated by comprehensive indemnities in the Inter-Authority Agreement in the event of Brent incurring any financial liability. With a services contract, legal responsibility for the service remains with Barnet, as illustrated in the very recent personal injury case of *Woodville v Essex County Council*, though this turned on liability in negligence.
- 5.3 Whichever model is chosen, for the activities for which discretionary income is charged, a Barnet resident would probably argue that a contract with Brent is in place, and any shortcoming in service eg a registrar fails to turn up at a wedding venue could lead to a claim for damages.
- 5.4 The recommendations request that the decision as to whether to agree to Barnet delegating their function or awarding a service contract, be delegated. However in light of the greater legal risk attaching to the delegation of function arrangement, it may be appropriate to seek a greater percentage share in surplus discretionary income than if a services contract is awarded.
- 5.5 Brent and Barnet will need to negotiate an Inter Authority Agreement setting out how the shared service will work, to include (in addition to the matters listed at paragraph 3.7):
- ◆ A requirement to agree budgets for the shared service at least 3 months prior to the commencement of any budget year;
  - ◆ The duration of the agreement to be 5 years (but capable of extension if the parties agree);
  - ◆ Details of any set up costs for the shared service including how any redundancy costs will be treated;
  - ◆ Details of the financial agreement between the Boroughs including baselines for income and expenditure
  - ◆ Details regarding the use of Brent and Barnet's premises;

- ◆ Details of how income from the shared service will be apportioned between Brent and Barnet;
- ◆ Full details of governance arrangements to include details regarding monitoring meetings; and
- ◆ Provisions regarding termination including details of sharing financial liabilities

5.6 For Barnet staff TUPE transferring to Brent, the proposed Inter Authority Agreement will need to contain provision requiring Barnet's pension fund to pay Brent's pension fund the total pensions liabilities relating to the staff transferring at the start of the contract period should Barnet staff chose to join Brent's pension scheme.

5.7 Brent's legal power to provide the service back to Barnet derives from the Local Authorities (Goods and Services) Act 1970, whereby local authorities are able to provide administrative and technical services to other local authorities. Audit Commission guidance recognises that the authority delivering the service is entitled to generate a surplus from the activity. Under Standing Order 87, Executive approval is required to enter into any arrangement over a certain value through which Brent provides services to others.

5.8 It is for Barnet to comply with its own constitutional requirements in relation to the award of service or delegation of function. In particular, the delegation of function model is likely to require a formal resolution delegating the function, to be given by either the Barnet Cabinet or by its Full Council, depending on whether the registrars' function is an Executive or non-Executive function under Barnet's constitution.

## **6.0 Equality Implications**

6.1 An Equalities Impact Assessment has been undertaken and has identified no adverse consequences for staff or for customers sharing a protected characteristic. The Equalities Impact Assessment for Brent is attached at appendix 1. It is expected that the change proposed will allow for the better discharge of the Councils' Public Sector Equality Duty through a wider and more varied customer offer and a more flexible and sensitive service.

## **7.0 Staffing/Accommodation Implications**

7.1 As detailed at paragraph 3.7, the proposal is for Barnet staff to transfer to Brent and become Brent employees pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). Barnet's staff would TUPE transfer to Brent on the basis of Barnet's Terms and Conditions. Under TUPE both councils are required to inform and if appropriate consult with elected trade unions or elected employee representatives in relation to any affected employees.

7.2 It is likely that both current Brent staff and ex-Barnet service transferring to Brent have employment contracts requiring them to work within Brent or Barnet respectively, similarly their contracts may require them to carry out the registration function of Brent or Barnet. In light of the proposal for all staff to operate as pool across both boroughs, it will be necessary for current Brent and Barnet staff to have their employment contracts varied to reflect this.

- 7.3 Brent's Head of Service will need to have his employment contract varied to reflect the fact that he is Head of Service for both Barnet and Brent.
- 7.4 Barnet have a proposed establishment of 15fte of whom currently 9fte are Barnet employees, 4fte are agency staff and two posts are not yet filled. Therefore unless this changes only 9fte will transfer to Brent's employment. It is not anticipated that there will be any redundancies as a consequence of these proposals.
- 7.5 There are no major accommodation implications as a result of amalgamation. Both Brent and Barnet would expect to continue to have services delivered from their existing service outlets. However it is proposed that all staff, whether ex-Barnet or not, will cover both Brent and Barnet activities. This means Barnet will need to license their currently-used facilities for use by Brent staff on Barnet business. In relation to Brent accommodation, it will need to be agreed whether all the ex-Barnet staff will have the Civic Centre as their principal place of employment, however at any one time there will be no more staff at the Civic Centre on registrars business than are currently accommodated because some staff will always be at Barnet facilities.

### **Background Papers**

None

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