

## Appendix to Audit Committee Decisions, 16 June 2011 – Agenda Item 4

### Note

The Council's Constitution provides that:

Questions will be dealt with strictly in order of receipt, but a second question submitted by an individual (other than a supplementary question...) will not be dealt with until all first questions submitted from members of the public have been dealt with. Similarly a third question from an individual will not be dealt with until all "second questions" have been dealt with and so on.

The time allowed for questions to the Leader, appropriate Cabinet Member or Chairman shall be limited to **30 minutes** or a **maximum of 20 questions**, whichever occurs first.

The questioner may ask one supplementary question to the original question. These do not count towards the limit of 20 questions.

The Chairman must reply in writing to any questions not dealt with at the meeting.

Please note that Supplemental questions cannot be asked at the meeting on questions not dealt with at the meeting.

### 1. Mr Roger Tichborne

The Head of Internal Audit reported to the Audit Committee (29 September 2009, Item 8, page 31) that the then Director of Major Project (Mr Craig Cooper) had confirmed that an effective spend analysis and monthly vendor monitoring processes were in place. See link below to access the report: <http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=8541>

I presume the purpose of this activity was to ensure that for every vendor without a valid contract, where the spend is or is expected to be above the relevant CPR threshold, there is either a valid contract, planned process for renewing the contract or a tendering process is promptly put in place. Given that it is now well over 12 months since this assurance

### Response to Question

Vendor analysis undertaken in 2010 identified that the Council has over 9700 active vendors and that of those, 181 vendors accounted for over 80% of Council spend. It was therefore appropriate that immediate resources were focussed on reviewing the top 10 vendors to ensure that the Council was working to get maximum value for money

In response to the recent internal audit review, we have put in place a plan to ensure that the appropriate controls are in place in accordance with procurement procedure and regulations.

was given to the Audit Committee, all vendors, where the spend is above the spend threshold, by now would have been selected through fair means of selection and covered by a valid contract.

We are informed that the monthly vendor monitoring process was carried out but only for the top 10 vendors. I assume that this narrow process was put in place with the full knowledge and understanding of the then Director of Major Projects and now the Director of Commercial Services. It appears to me that under this process it is highly likely that the majority of the 10 vendors would be identified again and again each month and that each month officers will spend valuable time to check if the same vendor, checked the previous month, is covered by a contract. I would argue that this does not appear a very productive use of resource.

“Can the Audit Committee tell me how the relevant Director (i.e. Director of Commercial Services) thinks that monitoring top 10 vendors would lead to all Council spending to be controlled under CPR to enable the Council to obtain value for money?”

#### Supplementary Question

Having listened to your response, if you have 181 vendors, are there proper guidelines and best practice that Barnet Council follows and do you keep your procedure up to date, possibly in how you have controlled hundreds of other contracts. Is there any process to ensure that you continually update your processes?

#### 2. Ms Amber Homes

The Internal Audit Report is silent on whether purchase orders were raised prior to the receipt of invoices from

#### Response to Supplementary Question

Answers to questions will be given during the discussion of the items on Internal Audit Progress Report - Quarter 4 and the Internal Audit Annual Opinion Report. The reports show all the weaknesses that you have identified. I will ensure that officers answer the questions during the meeting.

#### Response to Question

This issue was dealt with in the report on page 26 of the Committee papers:

MetPro to ensure e.g. availability of budget before committing the Council to spend, to prevent over or duplicate payments etc.

“Can the Audit Committee tell me that if purchase orders for MetPro services were raised after the receipt of invoices, have there been any over or duplicate payments and if so what is the total value?

#### Supplementary Question

Does the Audit Committee consider the submission by MetPro of duplicate invoices as attempted fraud and if not why not?

#### 3. Mr Ron Cohen

The Head of Internal Audit reported to the Audit Committee (29 September 2009, Item 8, page 31, Risk 5 on Spend analysis) that the then Director of Major Projects (Mr Craig Cooper) had confirmed that an effective spend analysis and monthly vendor monitoring processes were in place. See link below to access the report:

<http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=8541>

It is clear from the above that there is endemic problem of Directors and responsible officers not addressing internal audit recommendations. In recognition of the above:

Will the Audit Committee ask for a further report from the Assistant Director of Finance- Audit and Risk Management to establish that there is no endemic problem of Directors and responsible officers not addressing internal audit recommendations, which would require the Audit Committee

We selected a random sample of 15 invoices (as reported) and found that purchase orders were raised on or after the date of the invoices being received. These invoices did not have a purchase order number recorded. In the absence of supporting documentation evidencing actual service delivery to approve invoices for payments, we could not identify any over or duplicate payments and the report includes a recommendation to address this risk.

#### Response to Supplementary Question

If it was found that there was attempted fraud, this will be a matter for the police. Officers will give further update during the discussion of the item.

#### Response to Question

An analysis of findings from previous audit reports was undertaken for the Corporate Procurement audit finalised alongside the Metpro audit (pages 150-152 of committee papers). This review showed some previous weaknesses as described in the current MetPro report. Management responses were received at follow-ups to action weaknesses reported and mitigate risks; these had only been partly mitigated during these reviews. Reviewing prior recommendations again would not necessarily identify anything we do not already know. The focus should be the delivery of the action plan to ensure that now all of these issues identified will be addressed to ensure the end to end process is effective.

Adjusting the Internal Audit Plan 2011-12 to replace an audit with this particular review identified would mean that high risk areas would go unaudited and as such the necessary assurances could not be provided to managers, directors and

to see the following:

1. Full copies of all audit reports that have reported weaknesses or risks around procurement, tendering, ordering, invoice payments, vendor control, safeguarding during the past 5 years.
2. Analysis of these reported weaknesses or risks and identify those that have been reported more than once and are reported in the current report on MetPro.

#### Supplementary Question

Five hundred million pounds is the budget for a small country. On what evidence does the Audit Committee justify that to carry out a review of prior recommendations again would not necessarily identify anything not already known?

#### 4. Ms Vicki Morris

The Executive Summary of the Draft Internal Audit Report MetPro Rapid Response Ltd (MetPro) May 2011, at paragraph 5, states that Directors and Heads of Service are responsible for all contracts tendered and let by their service areas. The Internal Audit Report informs us that in the case of the MetPro companies there was no contract nor did any tendering take place.

Paragraph 1.2 of the council's Contract Procedure Rules states: "...it is a disciplinary offence to fail to comply with Contract Procedure Rules and the Procurement Code of Practice when letting contracts. Council employees have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Head of Internal Audit and Ethical Governance."

those charged with governance. The Internal Audit Team comprises the Head of Internal Audit plus three other staff, and 1.5 from an outside supplier, for a council with five hundred million pound revenue expenditure.

#### Response to Supplementary Question

The Audit Committee will decide at its next meeting what will be in the Action Plan. The Chief Executive asked the Chairman of the Audit Committee if he would take on the MetPro Internal Audit. There is the likelihood that other areas of work may have to be put back. Will ask the Chief Executive to buy some more time from internal Audit consultants.

#### Response to Question

The Report on page 6 of the Committee papers notes: Directors and Heads of Service are responsible for all contracts tendered and let by their service areas. They should ensure effective contract management, contract reviews and monitoring during the lifetime of all contracts in their areas in accordance with CPR items 4.1 to 4.1.16.

Directors and Heads of Service must have systems in place to ensure that only authorised officers are allowed to place purchase orders, and that purchase orders are only raised when there is sufficient budget available. Any procurement activity must follow the relevant steps prior to raising a purchase order.

Also noted on page 6 of the committee papers: Arrangements

In Part 2 (Financial Administration), section 12, "Ordering of Supplies, Works and Services", of the council's Financial Regulations it states: "Procurement of supplies, works and services must be in accordance with Contract Procedure Rules and Procurement Code of Practice."

Can the Audit Committee tell me who is responsible for ensuring compliance with the Contract Procedure Rules when committing any expenditure i.e. placing an order? Who was responsible in those departments that dealt with the MetPro companies?

What disciplinary measures should be taken against Directors and Heads of Service who appear to have failed to ensure their departments comply with the council's own Contract Procedure Rules?

#### Supplementary Question

The MetPro issue has shone a light on the overall situation, and helped residents see what is going on. The failings mean money has been wasted at the same time as we are told to accept cuts to valuable services. There seems to be complacency among officers about this; I want to know who will carry the can?

#### 5. Ms Theresa Musgrove

The Audit Report reveals an appalling sequence of extremely serious failures, over a period of five years, in the council's unregulated use of the MetPro security companies.

There are three particularly serious issues which emerge

for commissioning Metpro for security services were considered as devolved (as there was no corporate security contract – a contract that is commissioned and monitored by the Corporate Procurement Team) with Barnet House being monitored by Facilities Management and Barbara Langstone House being monitored by Housing Services.

The audit report identifies weaknesses in internal control and it is not the role of Internal Audit to make recommendations on how disciplinary measures will be carried out.

#### Response to Supplementary Question

Audit Committee has no power over disciplinary matters. What it can do is to make recommendations as to where it feels blame lies and then for the Chief Executive to ensure that any disciplinary measures are taken. Legally, individuals cannot be named as this may harm any disciplinary proceedings that may take place. Various positions are mentioned in the report and those will be looked at very closely.

#### Response to Question

The audit report (pages 9 and 29) makes reference to the fact that there were no Criminal Records Bureau (CRB) checks undertaken and this thereby exposes the Council to significant financial and reputation risks. Now that the Council has the report, it is free to carry out further reviews

from the report which are a direct consequence of the failure to monitor the actions of the companies: one is in relation to the safeguarding implications of the use of unlicensed employees without CRB checks, and another is in regard to the data protection breaches that took place in relation to the covert and illicit filming of residents at the Budget meeting of March 1st, and thirdly there is the question of the potential criminal offences committed by the use of unlicensed security operatives.

I would like to ask the Committee the following:

Members of the Committee were sent by me copies of a document 'Emergency Response at Barnet House' which clearly proves that MetPro employees claimed to work with children, including children at risk, and vulnerable adults at Barbara Langstone House hostel. The document includes a photograph of an employee apparently having physical contact with a child, which would seem at the very least inappropriate, if no doubt entirely innocuous. The implications of this failure to establish CRB credentials are enormously significant and represent a potential sustained failure of duty of care. Has the council instigated an urgent independent inquiry into the risk to residents, especially children and vulnerable adults, posed by the unregulated use of these companies? If so, can they give us evidence of the date of the decision to proceed with such an inquiry, and if no inquiry has been instigated, explain why not?

Several residents, including myself, were filmed without our consent at the budget meeting on March 1st. The council did not inform us of this gross invasion of privacy and breach of the data protection laws, but obtained and secretly destroyed a copy of this footage. The original footage is retained by the company in question and in my case the company will not

however we were not advised of any inappropriate dealings by Metpro with vulnerable adults or children.

Within the audit we did not find any evidence to suggest that MetPro had been asked to film residents from any Council officers in the absence of any specification for the provision of services. Page 18 of the report identifies that there were no specifications found for services provided for Metpro.

Response from Director - the week commencing 14 March 2011, the Head of Facilities contacted the Security Industry Authority (SIA). The purpose of the telephone call was to raise concerns with them on security services being deployed by Metpro Rapid Response and to discuss with them the issue that Metpro Rapid Response was not an approved security contractor with the SIA. This was confirmed to the Commercial Director in writing by the Head of Facilities Management.

comply with a request for access to it. Has the council instigated an urgent independent inquiry into the data protection breaches which took place on council property, or in the course of council actions elsewhere, not just on March 1st, but throughout the five years of the period of uncontracted use of these companies? If so, what evidence can the council show of the date of the decision to instigate such an inquiry, and if no inquiry has been instigated, explain why not?

Has the council reported to the SIA or the Metropolitan Police the fact that MetPro have been using unlicensed security employees, in breach of the law? If this has been reported to them, what evidence can the council provide of the date this was reported, and if it has not been reported to the SIA, or the Metropolitan Police, why not?

#### Supplementary Question

What is the human impact of what has gone wrong, surely there should be an independent review to scrutinise the apparent lack of care. On the response that the council was 'free to carry out further reviews' but was evidently not going to, is there not a real and serious risk that had been presented to children and vulnerable adults and therefore an independent review should be carried out? On the second part of the question regarding data protection, your answer seems to be washing your hands off the issue raised?

#### 6. Ms Vicki Morris (Question 2)

What information did the Audit Committee inquiry uncover about how MetPro Rapid Response came to be chosen to do security work for the council, given that we seem to have no written record of any tender or bid?

#### Response to Supplementary Question

As Chairman of Audit Committee, I agree and I am critical of any alleged MetPro contact with children and vulnerable people. Officers have asked for any complaints of inappropriate contact to be reported.

#### Response to Question

The report notes (pages 11-13) information was not available or found to establish how MetPro came to be chosen to do security work for the Council. A need was identified for more effective security and better protection for Council staff at

Barnet House, particularly in Housing where staff were felt to be at risk from physical harm. MetPro were commissioned to undertake this security work for an initial term of three months only, however these arrangements continued in the absence of a formal procurement exercise being undertaken.

7. Mr Ron Cohen (Question 2)

I note the covering report to the Audit Committee, introducing the Internal Audit Report on MetPro, has been cleared by JH/MC for Finance. I assume, according to the structure chart, <http://www.barnet.gov.uk/interim-corporate-management-chart-23dec10-2.pdf> that those are John Hooton Assistant Director – Strategic Finance and Maria Christofi Assistant Director – Financial Services, respectively. I assume the Internal Audit Report does not include weaknesses and issues that are the responsibilities of officers within the service area managed by these clearing officers. Good practice would suggest that clearing officers would have sufficient integrity and independence to scrutinise the report being introduced i.e. they cannot sign off a report for the Audit Committee if their service is subject to a review as they would clearly not be independent.

Can the Audit Committee confirm that these clearing officers were not involved in the audit investigation at any stage, including the finalisation of the MetPro Internal Audit Report?"

8. Mr Roger Tichborne (Question 2)

Can the Head of Audit confirm that she has been independent in regards to the investigation and the department has not been subject to undue pressure or

Response to Question

Every report going to a Committee follows the report clearance process, these are mandatory. This is for the officers within Legal, Finance, Policy, Equalities and Democratic Services to ensure that all issues within the report have been brought to the attention of the Committee. All reports, internal and external, follow this process. The focus of this clearing process is the covering pages of the report not the detail of the report. I can confirm that no comments were received from officers in the clearance process other than from legal services regarding the covering report sections 7.1 and 7.2 and minor spelling mistakes.

Per 3.6 of the financial regulations: The Head of Internal Audit should have direct access to, and freedom to report in his or her own name and without fear or favour to, all officers and members and particularly to those charged with governance.

The Head of Internal Audit can confirm that the changes to the covering report as part of the clearance process were appropriate and the draft report was therefore finalised on 6 June 2011 and confirmed as final to Business Governance Service after that process had been followed.

Response to Question

Per the Council's Constitution - The Chief Internal Auditor helps the Chief Financial Officer discharge his/her responsibilities under section 151. Irrespective of the



coercion to amend the wording of the report? What was the exact date/time of final issue of the final report? What does that mean in terms of the status of the report, can she confirm that there has been no addition or deletion to the final report since final issue date. If there has been has she reported this to the chairman and informed him of the reasons, in particular for VAT issues. If there have been an amendment for VAT issues, what was the reason for the amendment and why was the amendment carried out.

organisational position of internal audit, this officer should have the right to report on matters concerning internal audit and internal control directly to the Chief Executive and the Audit Committee. Under section 3.5 of the Financial Regulations - Internal Audit should be independent of the activities that it audits to enable auditors to perform their duties in a way that allows them to make impartial and effective professional judgements and recommendations. Internal auditors should not have any operational responsibilities.

The Head of Internal Audit does confirm that she does not have any operational responsibilities outside of internal audit and risk management duties and is therefore independent. It is normal process to consult as part of the audit process and to consider any information management may consider relevant, this is not considered unreasonable or unusual. The Head of Internal Audit stands behind the results of the audit and has not suffered undue influence in coming to a professional conclusion.

Per 3.6 of the financial regulations: The Head of Internal Audit should have direct access to, and freedom to report in his or her own name and without fear or favour to, all officers and Members and particularly to those charged with governance.

The final report is considered final at the point that it is cleared by the Head of Internal Audit to Democratic Services and that date was considered 6:30pm on 6 June 2011. It has not been changed since that date. The Chairman was in full knowledge of the contents of the report. As described above, the report by the Head of Internal Audit is under her name not that of the Chairman of the Audit Committee, as such she would not need to justify changes of the report to officers or the Chairman. Normally the Chairman would not receive draft reports before finalisation however a draft was available

in hard copy for him to have discussions with the Director of Commercial Services regarding ways of dealing with the issues. The issues as reported are accurate and based on information up to the date of the report.

The VAT issue changed throughout the audit as a result of review of the audit file and information obtained by the Senior Principal Auditor and the Head of Internal Audit. The VAT officer was on sick leave for a point of time during the audit and therefore advice from other officers during that time was not absolute. On 1 June 2011, the Head of Internal Audit requested the VAT officer to report the issue noted in the audit to HM Revenue and Customs (HMRC) and have them carry out a separate investigation regarding the implications of the invoices that were reviewed as part of our sample. HMRC advised that they would undertake a separate review of the supporting evidence, on 6 June 2011, the VAT officer received verbal confirmation that the VAT number was valid. HMRC did not confirm in writing until the investigation was appropriately carried out. The council received email confirmation on 13 June 2011 that the audit sample was valid for VAT purposes, however they advised to review all invoices. All invoices were then sent to HMRC with a conclusion received on 16 June (today) that they were appropriate for VAT purposes. The amendments to the report prior to finalisation in this context were considered appropriate in the Head of Internal Audit's professional view. The Chairman of Committee was made aware of these changes to the Report.

9. Ms Vicki Morris (Question 3)

The value of the work done by the MetPro companies for Barnet council since 2006 is in the order of £1.4 million. While this is a substantial amount, it is still quite small in

Response to Question

Response from Director: As demonstrated by the vendor analysis, the Council undertakes procurement on a large scale as part of its daily business. The internal audit

comparison to the size of the contracts the council is offering in the One Barnet (outsourcing) Programme. On the basis of the evidence of the MetPro inquiry, how can the council reassure residents that the council is in any fit shape to handle procurement on the scale that is envisaged by the One Barnet Programme?

investigation has identified instances where procurement control has not been applied in accordance with the Contract Procedure Rules (CPRs) and the Procurement Control and Monitoring Plan has been put in place to address the identified weaknesses.

The Director further states, 'The procurement undertaken in relation to the One Barnet Programme is being managed by a dedicated team of professionals.'

10. Mr Roger Tichborne (Question 3)

Have you issued a review of a report on Central Procurement? When was the draft issued and when was the report finalised. Did you amend the report based on information received through the Metpro investigations after the report was issued?

Response to Question

The report on corporate procurement was finalised on 6 June 2011. A report is not considered final until the Head of Internal Audit has considered the report. Finalisation of the report occurred alongside the Metpro audit by the in-house team to ensure the audit opinion was valid (the review was originally carried out by the IA supplier). The Head of Internal Audit reserves the right to ensure all reports are accurate before finalisation; this is set out in the Constitution. Limited assurance was still considered appropriate however there were some issues noted in the work performed by the internal audit contractor in following up previous audit recommendations; as such the draft report was updated to reflect that. This was an appropriate quality assurance process given the issues Metpro presented. To note, the audit reviewed areas the corporate procurement team was responsible for, however as noted in the meeting the majority of procurement activity sits with services, the issue being that there is a lack of oversight of these devolved functions as noted in the final audit report.